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Senate

The Senate met at 9:44 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, we thank You for Your love offered and received, for Your calling issued and obeyed, and for Your support provided and trusted.

Help those of us so blessed to enter more fully into what You are doing in our world and to put our resources under the direction of Your spirit.

Bless our lawmakers in their work. May the goals they set and the efforts they expend bring honor to Your name. Give them the wisdom to back their rhetoric with ethical behavior. Remind them that doing right brings Your favor, but sin brings disgrace. Teach each of us that we harvest what we plant, whether good or bad.

We pray in Your righteous Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

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

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will proceed at 10 a.m. to an up-or-down vote on Tom Griffith's nomination to the D.C. Circuit Court. I suspect the Senate will vote to confirm Mr. Griffith, and I thank the Senators who participated in the debate over the course of yesterday.

Immediately after that vote, we will begin consideration of the Energy bill. We have scheduled consideration of the bill for the entirety of this week and through next week. We will be completing the Energy bill by the end of next week, a fact that I mention so people will come down and make their amendments known to the managers of the bill early on. That will provide ample time for there to be debate and amendments over these next 2 weeks.

Senators should be prepared to offer those amendments beginning later today and throughout the week. The chairman and the ranking member of the Energy Committee will be here to manage the process. I do encourage Senators to offer and debate those amendments over the next 2 weeks. It will take a lot of cooperation to accomplish that goal.

I have been in discussion with the Democratic leader, who agrees with this plan of doing our very best to complete the bill. We will complete the bill by the end of next week. I thank all Members in advance.

EXECUTIVE SESSION

NOMINATION OF THOMAS B. GRIFFITH TO BE UNITED STATES CIRCUIT JUDGE

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to resume consideration of Calendar No. 66, which the clerk will report.

The legislative clerk read the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia Circuit.

Mr. FRIST. Mr. President, in a few moments, we will be voting on Tom Griffith's nomination to the D.C. Circuit Court. Tom Griffith is a man of deep integrity, a man of skill, a man of experience who has won the respect and admiration of colleagues all across the political spectrum. I am confident that once approved, Mr. Griffith will serve the D.C. Circuit Court with honor and distinction.

Mr. Griffith graduated summa cum laude from Brigham Young University. He earned his law degree from the University of Virginia Law School where he served on the Law Review.

Over the course of his legal career, Mr. Griffith has developed a broad range of experience from civil and criminal law to regulatory and international issues. Mr. Griffith currently serves as assistant to the president and general counsel of Brigham Young University.

As Senate legal counsel during the impeachment trial of President Clinton, Mr. Griffith proved his ability to fairly and impartially interpret the law. David Kendall and Lanny Breuer, special counsel to President Clinton, wrote to the Washington Post:

Tom has been a leader in the bar and has shown dedication to its principles. The Federal bench needs judges like Tom.

Glen Ivey, former counsel to former Senate minority leader Tom Daschle, testified that during the Senate's Whitewater and campaign finance reform investigations, Mr. Griffith was scrupulous. Mr. Ivey says:

Even when we were handling sensitive and politically charged issues, he acted in a nonpartisan and objective manner. I believe Mr. Griffith has the intellect and temperament to make an outstanding jurist.

Tom Griffith is a dedicated public servant of tremendous ability. Two former presidents of the American Bar Association call Mr. Griffith ''extremely well qualified for service on the D.C. Circuit.'' They write:

The Federal bench needs people like him, one of the best lawyers the bar has to offer.

Senator HATCH has said that in all of his years in the Senate, he has never

seen such a broad outpouring of support for a nominee from so many distinguished individuals on both sides of the aisle.

Senator DODD says:

Tom handled his difficult responsibilities as Senate legal counsel with great confidence and skill, impressing all who knew him with his knowledge of the law and never succumbing to the temptation to bend the law to partisan ends.

In that spirit, I urge my colleagues to vote in a few moments to confirm Tom Griffith to the D.C. Circuit Court.

I am pleased by the bipartisan progress we are making in the judge confirmation process. In the last 3 weeks alone, we confirmed Priscilla Owen to the Fifth Circuit Court of Appeals, Janice Rogers Brown to the D.C. Circuit Court of Appeals, William Pryor to the Eleventh Circuit Court of Appeals, David McKeague to the Sixth Circuit Court of Appeals, and Richard Griffin to the Sixth Circuit Court of Appeals. I now look forward to Tom Griffith being added to this outstanding list of confirmations.

Let us continue on this path of progress and cooperation. I believe it is our constitutional duty and responsibility to vote. We are doing so. Our constituents expect us to do just that—vote. Every nominee deserves the respect of a vote, fair, civil, up or down. That is what we will be doing today.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Vermont.

Mr. LEAHY. Mr. President, I am glad to hear the distinguished leader say nominees deserve an up-or-down vote. Of course, he and other Republicans assured that 61 of the judicial nominees of President Clinton were not given a vote. They were subjected to pocket filibusters—61. In fact, this nomination is a measure of the double standards used by Republicans in connection with judicial vacancies. During President Clinton's Presidency, Senate Republicans said the 11th and 12th judgeships to the D.C. Circuit were not to be filled, that we did not need those seats. They had argued since 1995 that the caseload of the D.C. Circuit did not justify a full complement of the court. Indeed, at a hearing in 1995, Republicans called Chief Judge Laurence H. Silberman of the circuit to testify against proceeding to fill vacancies on the D.C. Circuit. Republicans have argued for years this circuit's caseload per judge is one of the lightest in the country. In a May 9, 2000, letter, Judge Silberman argued that the D.C. Circuit's caseloads had continued to decline from 1995 to 2000, and he opposed confirmation of additional Clinton nominees. In fact, the D.C. Circuit caseload has continued to decline and in 2004 was lighter than it was in 1999 when Senate Republicans pocket filibustered two highly qualified and moderate nominees by President Clinton to vacancies on that circuit.

Now with the confirmation of Janice Rogers Brown to the court last week, there are 10 confirmed, active judges on the D.C. Circuit, which is what Republicans have always maintained is the most that circuit should have. Now, of course, we find we have another one.

With all the self-righteous talk from the other side of the aisle about their new-found ''principle'' that ever judicial nominee is entitled to an up-or-down vote, the facts are that the nominations of Allen Snyder and Elena Kagan to the D.C. Circuit were pocket filibustered by those same Senate Republicans in 1999 and 2000. Ms. Kagan is now Dean of the Harvard Law School. Qualified? Undoubtably. One of the most qualified people to be nominated to that court in the 31 years I have been in the Senate. Was she given consideration in a Republican-led Senate? Not on your life. She was filibustered by Republicans. Likewise, the nomination of Allen Snyder, former clerk to Chief Justice Rehnquist and a highly respected partner in a prominent D.C. law firm, was pocket filibustered by Senate Republicans. When one of Mr. Synder's partners, John Roberts, was nominated to the same court by President Bush, he was, of course, unanimously supported by Senate Republicans. Senate Republicans played a cruel joke on Mr. Snyder when they allowed him a hearing but then went on to refuse to list him for a vote by the Judiciary Committee or the Senate.

I recall that in September 2000, Senator SESSIONS explained that Clinton nominees Allen Snyder and Elena Kagan were blocked: ''Because the circuit had a caseload about one-fourth the average caseload per judge. And the chief circuit judge said 10 judges was enough, instead of 12. And I actually thought that was too many. I thought 10 was too many.'' So this Republican Senator joined in the pocket filibuster of these two nominees.

Well, the D.C. Circuit's caseload per judge is lower now than it was during the Clinton administration, but suddenly with a Republican President, Republican Senators say we need to fill those seats. It is a bit hypocritical. Let us see whether the votes of Republican Senators this time will be based on the same rationale they gave in inflicting pocket filibusters on Clinton nominees.

Last week we witnessed a Republican Senator—who had voted against the confirmation of a Clinton judicial recess appointment and had explained his vote as representing his opposition to recess appointments reverse himself to vote for a Bush judicial recess appointment.

Last week, we witnessed dozens of Republican Senators—who voted against confirmation of Ronnie White of Missouri in 1999 and had explained their vote as compelled by the opposition of his home-state Senators—reverse themselves and vote in favor of Justice Janice Rogers Brown and ignore the strong, consistent and well-founded opposition of her two home-state Senators.

Ronnie White, now the first African American to be chief justice of the Supreme Court of Missouri, was turned down by a double standard used by Republicans. I wonder whether the many Republicans Senators who delayed and opposed the confirmation of Merrick Garland in 1996 and 1997 and pocket filibustered the nominations of Allen Snyder and Elena Kagan in 1999 and 2000 will vote against a nominee to the D.C. Circuit because the caseload of the circuit does not justify more judges. We will see if Republican Senators again abandon their earlier rationale.

It is sometimes embarrassing, I think, to some of my friends on the other side to be reminded of all the rationales they used in pocket filibustering President Clinton's nominees, when now all of a sudden those same rationales are out the window when a Republican nominates a judge.

In addition, as I explained yesterday, my opposition to this particular nominee, Mr. Griffith, is because he did not follow the law. His decision to practice law without a license for a good part of his career should be disqualifying. He has not honored the rule of law by first practiced law illegally in the District of Columbia for several years and then in Utah for several years without even bothering to fulfill his obligation to become a member of the Utah bar. In this regard he appears to think he is above the law. This is not the kind of nominee who should be entrusted with a lifetime appointment to a Federal court and, least of all, to such an important court as the D.C. Circuit, which is entrusted with protecting the rights of all Americans. He may be a fine gentleman, but what a standard. We turn down a partner in a prestigious law firm because he was nominated by a Democrat, and we turn down a woman highly qualified who becomes the dean of the Harvard Law School, but she committed a sin of having been nominated by a Democratic President. When a Republican nominates somebody for the same seat and he practiced law illegally for 7 years, well, all is forgiven. This is the wrong nomination for this court, and I will vote against it.

I think it is another in a series of inappropriate nominations the President has made to the same court. Of course, the takeover of this court is now complete. It becomes an arm of the Republican Party. Mr. Griffith is the third nominee from President Bush to be considered by the Senate. If he is confirmed with those 11 judges, a majority of 7 judges will be appointed by Republican Presidents, but interestingly enough, they have turned this court into an arm of the Republican Party by using some of the worst double standards we have seen. Instead of having a balanced court where we have nominees of both parties, the Republicans in the Senate filibustered, pocket filibustered judge after judge nominated by a Democratic President.

The D.C. Circuit is an especially important court in our Nation's judicial system for its broad caseload covering

issues as varied as reviews of federal regulation on the environment, workplace safety, telecommunications, consumer protection, and other critical statutory and constitutional rights. The White House has rejected all Democratic efforts to work together on consensus nominees for this court and refused to engage in consultation. I wish the President would work to unite the country instead of dividing it. But he has divided the Senate and the American people with several of his judicial nominees. It is unfortunate for the judiciary, the Senate, and the Nation. The President's unilateral approach is totally unnecessary and unlike his predecessors'.

I have been here with six Presidents. Five before this Senate always consulted with both parties on judges they sought to unite rather than divide.

This is the first President who has not.

To reiterate, I oppose the nomination of Thomas Griffith to the U.S. Court of Appeals for the D.C. Circuit. Mr. Griffith's decision to practice law without a license for a good part of his career should be disqualifying. Mr. Griffith has foregone at least 10 opportunities to take the bar in Utah, and has continued to refuse during the pendency of his nomination. In this regard he appears to think he is above the law. That is not the kind of person who should be entrusted with a lifetime appointment to a Federal court and, least of all, to such an important court as the D.C. Circuit, which is entrusted with protecting the rights of all Americans. This is the wrong nomination for this court and I will vote against it.

Given the fact that the Supreme Court routinely reviews fewer than 100 cases per year, the circuit courts, like the D.C. Circuit, end up as the courts of last resort for nearly 30,000 cases each year. These cases affect the interpretation of the Constitution as well as statutes intended by Congress to protect the rights of all Americans, such as the right to equal protection of the laws and the right to privacy. The D.C. Circuit in particular is an especially important court in our Nation's judicial system because Congress has vested it with exclusive or special jurisdiction over cases involving many environmental, civil rights, consumer protection, and workplace statutes. For example, the D.C. Circuit has exclusive or concurrent jurisdiction in cases involving the National Labor Relations Board, the Occupational Safety and Health Administration, the Federal Energy Regulatory Commission, the Federal Election Commission, and the Federal Communications Commission. The D.C. Circuit is entrusted with interpreting the Americans with Disability Act, the Endangered Species Act, and the Environmental Protection Agency, and has primary responsibility for ruling on the Resource Conservation and Recovery Act, Superfund, the Clean Water Act, and the Clean Air Act. It is crucial that this court retain its independence.

The White House has rejected all Democratic efforts to work together on consensus nominees for this court and refused to engage in consultation. That is too bad and totally unnecessary. This is another in a series of inappropriate nominations this President has made to this court. Last week, Senate Republicans voted in lockstep to confirm Janice Rogers Brown to this court. The takeover of this court is now complete. Mr. Griffith is the third nominee for this court from President Bush to be considered by the Senate. If he is confirmed the 11 judges on the court will include a majority of seven judges appointed by Republican Presidents.

At Mr. Griffith's hearing last March, I noted that unlike the many anonymous Republican holds and pocket filibusters that kept more than 60 of President Clinton's moderate and qualified judicial nominees from moving forward, the concerns about Mr. Griffith were no secret. Unlike the Republicans' pocket filibusters of Allen Snyder and Elena Kagan, who were each denied consideration and an up or down vote when nominated to the D.C. Circuit, Mr. Griffith knows full well that I think he has not honored the rule of law by his practicing law in Utah for 5 years without ever bothering to fulfill his obligation to become a member of the Utah bar.

By one count, Mr. Griffith has so far foregone 10 opportunities to take the Utah bar exam while applying for and maintaining his position as general counsel at BYU. He is about to forego an eleventh. This conscious and continuous disregard of basic legal obligations is not consistent with the respect for law we should demand of lifetime appointments to the Federal courts. He has yet to satisfactorily explain why he obstinately insists on refusing to do what hundreds of lawyers do twice a year in Utah and thousands of lawyers do around the country: apply for and take the State bar exam and qualify to become a member of the State bar in order to legally practice law.

He has testified that he has obtained a Utah driver's license and pays Utah State taxes, but he is not a member of the bar despite admitting practicing law there since 2000. This is not Mr. Griffith's first or only bar problem. Mr. Griffith was less than forthcoming with us on questions related to his repeated failures to maintain his D.C. bar membership and his failures to pay his annual dues on time not just once, not twice, but in 1996, 1997, 1998, 1999, 2000 and 2001. He was twice suspended for his failures, including one suspension that lasted for 3 years.

As was reported last summer in the Washington Post, and confirmed through committee investigation, Mr. Griffith has spent the last 5 years as the general counsel to BYU. In all that time he has not been licensed to practice law in Utah, nor has he followed through on any serious effort to become licensed. He has hidden behind a curtain of shifting explanations, thrown up smokescreens of letters from various personal friends and political allies, and refused to acknowledge what we all know to be true: Mr. Griffith should have taken the bar. I ask unanimous consent that the relevant Washington Post articles be printed in the RECORD.

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

[From the Washington Post, Nov. 17, 2004]

COURT NOMINEE GAVE FALSE DATA, TEXT SHOWS; LAW LICENSE WAS SUSPENDED DESPITE EARLY DENIAL

(By Carol D. Leonnig)

Thomas B. Griffith, President Bush's nominee to the U.S. Court of Appeals for the District of Columbia Circuit, appeared to provide inaccurate information to Utah bar officials about his legal work and lapses in obtaining law licenses over the past year, according to documents released yesterday at his nomination hearing.

Griffith's nomination has been stalled for months over concerns that he failed to maintain a valid license for three years while he practiced law in the District and Utah, and that he did not obtain a Utah license after taking a job as general counsel for Brigham Young University in Provo, Utah. Even as Griffith defended his record yesterday, the new documents added to that controversy.

They show Griffith reported to Utah state bar officials last year that his law license had never been suspended. It had been suspended from 1998 to 2001. He also told the state bar that he relied on his D.C. license to practice law in Utah. But at yesterday's hearing, Griffith testified that he had practiced law in Utah by relying on associations with licensed attorneys there.

Senate Judiciary Chairman Orrin G. Hatch (R–Utah), a longtime friend of Griffith's who pledged to ''do everything in my power'' to help him win confirmation, scheduled yesterday's hearing for the middle of a lame-duck session and was the sole committee member present to question Griffith. Democrats said they were surprised Hatch proceeded despite the slim chances of the Senate approving Griffith in the remaining days before Congress adjourns and the objections to the nominee.

''We're going to do our very best to get you confirmed before the end of the session,'' Hatch told Griffith, before acknowledging: ''It'll be miraculous if we do.''

Senator Russell Feingold (D–Wis.) asked that Griffith's application and letters to the Utah bar be released at yesterday's hearing.

The Washington Post reported this summer that Griffith's D.C. license had been suspended because he did not pay bar dues from 1998 to 2001, a lapse that prevented Griffith from obtaining a reciprocal law license in Utah after he took the Brigham Young job. Griffith applied late last year to take the bar exam to obtain a Utah license but never sat for the January 2004 test.

Last month, the American Bar Association gave Griffith the lowest passing grade for a judicial nominee, a ''qualified'' rating. A large minority of the review committee voted ''not qualified.''

Yesterday, in his first public comments on the matter, Griffith said he ''deeply regrets'' his failure to make sure that his law firm paid his dues so he could keep a valid District law license. ''I bear full responsibility for what happened,'' he said. ''I should not have relied on others.''

Griffith added that because his license was suspended for administrative reasons, he

never considered it a true suspension or disciplinary matter, and did not report it to Utah officials. ''The thought never crossed my mind that it was related,'' he said.

Griffith also defended his decision not to obtain a Utah law license since becoming general counsel at Brigham Young, Hatch's alma mater, in the summer of 2000.

''It was always my understanding that in-house counsel need not be licensed,'' he said, as long as he worked with lawyers who did have valid Utah state licenses when he dispensed advice on state matters. He said he has been ''meticulous'' in limiting his work by collaborating with the four lawyers he supervises in his office.

In the newly released licensing application to the Utah state bar, however, Griffith answered ''yes'' to a question on whether he practiced law in Utah. He reported that he did so as general counsel for Brigham Young, relying on his D.C. law license.

In April 2003, the documents show, Griffith wrote a letter seeking advice from the Utah bar on how he could obtain a state license. Griffith said he had erred in assuming that a new state rule might help him get a reciprocal license. The bar's general counsel, Katherine A. Fox, wrote back the next month urging him to apply to take the bar exam and warning him to work with licensed colleagues in the meantime.

''It is unfortunate that you anticipated relying on the rule without having an understanding of the restrictions it imposed,'' she wrote.

[From the Washington Post, Sept. 30, 2004]

APPEALS NOMINEE GETS LOW GRADE; ABA CITES LICENSING LAPSES IN GRANTING 'QUALIFIED' RATING

(By Carol D. Leonning)

The American Bar Association yesterday gave President Bush's choice for a seat on the U.S. Court of Appeals for the District of Columbia the lowest possible passing grade for judicial nominees, and sources said a Republican Senate chairman was expected to schedule a hearing next week on his nomination.

Thomas B. Griffith, who failed to obtain a law license in Utah or keep a current license in the District during parts of the past six years, received a slight majority from his peers after an unusually long, three-month investigation. Under the ABA's system, that means at least eight of the 15 members on the review panel rated him ''qualified'' for a seat on the court, and at least six rated him ''not qualified.''

The national lawyers group, which also offers a higher rating of ''well qualified,'' evaluates judicial nominees for the Senate.

Others have received the same rating and been appointed to the federal judiciary. Of the 10 Bush administration appeals court nominees who received the same rating, six were confirmed to the bench. In President Bill Clinton's second term, two of the five appellate court nominees who received that rating were confirmed.

Griffith has declined to discuss his pending nomination.

A spokeswoman for Senate Judiciary Chairman Orrin G. Hatch (R-Utah) declined to say whether he plans to hold a nomination hearing for Griffith, but committee sources said they expect Hatch to announce today that he will schedule a hearing for Oct. 7. Hatch has campaigned for Griffith's confirmation, telling senators it is personally important that the White House nominee, a friend who hails from Hatch's home state, join the bench.

''The chairman is pretty committed to this nominee and has a high impression of Mr. Griffith,'' said Hatch spokeswoman Margarita Tapia.

Griffith failed to renew his law license in Washington for three years while he was a lawyer based in the District from 1998 to 2000, as counsel to the U.S. Senate and a partner in the firm of Wiley Rein and Fielding. He said the licensing dues were not paid because of an oversight by his firm's staff.

But that lapse subsequently prevented Griffith from receiving a law license in Utah when he took a job as general counsel for Brigham Young University in August 2000. Griffith said he discovered his D.C. license had expired in 2001. The Utah Bar told Griffith that after so many years without a valid license, the only way he could obtain a Utah license was to take the Utah bar exam. Griffith applied to sit for the arduous test but never took it, bar officials said.

Opponents of Griffith's nomination said yesterday that the low rating and the lateness of the Senate session should prevent him from getting a hearing.

Sen. Patrick J. Leahy, (D-Vt.) who this month said Griffith's nomination was on ''life support,'' said yesterday that he was surprised the White House and Hatch continue to press for a nominee with ''not exactly a confidence-inspiring rating.''

''This is a nominee who has been suspended from one legal jurisdiction and who apparently continues to this day to engage in the unauthorized practice of law in another,'' he said.

Thomas Z. Hayward Jr., a Chicago lawyer with Bell, Boyd & Lloyd and chairman of the ABA standing committee on judicial nominations, acknowledged this is ''one of the more difficult'' nominee investigations for the bar. He said that after Griffith's license lapses were reported in The Washington Post in June and a preliminary investigation was conducted in July, committee members appeared ''very closely split'' about whether Griffith met the minimum qualifications for an appellate judgeship.

Hayward said he then ordered a supplemental investigation ''to be fair to the nominee.'' About 40 more people with direct knowledge of Griffith, his licensing lapses in the District and Utah, and his career were interviewed.

People can respectfully disagree, but we have probably done more investigation into the questions raised by this nomination than anybody else, including the White House, the FBI and the two sides of the [Senate] Judiciary Committee,'' Hayward said.

Mr. LEAHY. Practicing law without a license, or as the bars call it, unauthorized practice of law, is not a technicality. In some States it is a crime. In Texas, for example, it is a third degree felony. It is a serious dereliction of a lawyer's duty. It is a commonplace of American jurisprudence that no one is above the law. If the American people are to have confidence in our system of laws that must include the lawyers, and beyond question, it must include the judges. I continue to be disappointed by Mr. Griffith's unwillingness to do what is now long overdue: namely, to take the Utah bar exam and become properly licensed to practice law in Utah, where Mr. Griffith has been practicing law for the last 5 years.

Despite the evident controversy surrounding his practice of law in Utah for 5 years without becoming a member of the Utah bar, he appears to have comfortably and conveniently placed himself above the law. That is not something I look for in lifetime appointments to the Federal courts. For a court that decides some of the most important issues of law in our Nation, where the ruling in just one case can affect millions of people in the most critical areas of their lives, the President has chosen to send us a nominee whose disregard for the rules that apply to him is simply unacceptable.

Over the months that this nomination has been pending before us we have done a good deal of investigation into this matter on a bipartisan basis. The committee investigators questioned the nominee, spoke to officials and experts at the D.C. bar and the Utah bar, asked for and received correspondence and other documents relating to Mr. Griffith's bar memberships and worked to understand the facts and circumstances surrounding the two situations. Having reviewed all of this information and studied Mr. Griffith's many answers, I have come to the inescapable conclusion that he feels he cannot be bothered to live up to the laws that apply to everyone else.

I will begin with the D.C. bar dues problem. In his initial description of this problem Mr. Griffith did his best to downplay it, telling the committee in his questionnaire that his membership in the D.C. bar ''lapsed for nonpayment of dues . . . due to a clerical oversight.'' At the committee hearing on his nomination, he tried to do the same, telling us that from the time he first began practicing law in North Carolina, and continuing through the time he practiced with a firm in D.C., he counted on his law firm to pay his bar dues. He went on further to say that when he took the job as Senate legal counsel he discovered the Government does not pay your professional fees. Here, I quote his testimony, where he told us: ''[W]hen I learned that the Senate wouldn't pay, I notified the D.C. bar to send the bar notices to my home, where I pay personal bills. They did so in '95, '96 and '97, and every time they sent a notice, I paid.''

The only problem arose, according to Mr. Griffith, in 1998, when, for reasons he cannot explain, the D.C. bar suddenly stopped sending him mail. He says he never received his bill for the 1998 dues year, does not remember receiving any of the follow-up notices the bar routinely sends, and simply forgot about his obligation until 3 years later, when he was seeking a certificate of good standing from the D.C. bar.

All of this may seem relatively harmless but a more serious problem arises because what Mr. Griffith told us and what he testified to is not entirely true, it was not the whole truth. For example, his membership in the D.C. bar did not just lapse when he failed to pay his dues in 1998, it was actually suspended. That means for the 3 years the suspension lasted, he was not legally allowed to practice in reliance on his D.C. law license. And he was not only suspended once from the D.C. bar, he was suspended twice, once in 1998 for not paying his dues at all, and also the year before, in late 1997. Furthermore,

we have also learned that while he managed to avoid suspension in 1996, he paid his bar dues late that year, as well. Contrary to his misleading testimony at his hearing, it seems that the only year Mr. Griffith actually paid his D.C. bar dues on time, after coming to the Senate in 1995, was in 1995. Two suspensions from the practice of law in 2 years, 3 late or nonexistent payments in 4 years, and an attempt to mischaracterize this embarrassing record are hardly just a single ''administrative oversight'' unless by that Mr. Griffith means to indicate that his single admitted error is that he does not comply with the law.

What may be more disturbing than Mr. Griffith's failure to pay his D.C. dues, for whatever reason, is his lack of concern about the implications of having practiced law in D.C. without proper licensure. When I asked him if he had notified his clients from the period he was suspended, whether he had told his partners or even the law firm's liability insurance carrier, he brushed me off, telling me that his membership in good standing was reinstated once he paid his dues. Of course, that ignored my real question about the ramifications of having been suspended for 2 separate periods totaling more than 2 years. Clients should be notified, partners should be told, and courts should be contacted.

The Department of Justice apparently agrees that suspension for failure to pay bar dues is a serious matter. Recent newspaper reports disclosed that the Department's Office of Professional Responsibility takes such a matter seriously enough to have opened an investigation into the case of a longtime career attorney there who, like Mr. Griffith, was suspended from the D.C. bar because he did not pay his dues. Unlike Mr. Griffith's case, the Department is concerned enough about such a suspension that they filed notices with the courts in every case this attorney worked on during the period of his suspension, notifying them that he was not authorized to practice at the time. This may impact the matters that Government attorney was supervising, which included the treatment and proper compensation of black farmers. Practicing law without a license is a serious matter.

The facts surrounding Mr. Griffith's membership, or lack thereof, in the Utah bar are even more disturbing. Thomas Griffith began his service as assistant to the president and general counsel of BYU in the summer of 2000. At that time he was not a member of the Utah bar, he was suspended from membership in the bar of the District of Columbia, and he was an inactive member of the North Carolina bar. He apparently did not have a valid license to practice from any jurisdiction.

According to BYU, its general counsel ''is responsible for advising the Administration on all legal matters pertaining to the University.'' In addition:

> All contracts, other legal documents and legal questions pertaining to the University or its personnel shall be presented to the Office of General Counsel or its staff members as directed for approval and/or recommendation. The General Counsel directs and manages all litigation involving the University and decides when to engage outside counsel and the terms and duration of outside counsel's representation. The General Counsel delegates the University's legal work among the lawyers in the office and supervises the work of the office.
> —*https://bronx.byu.edurystlife/prod/Handbook/University/Organization/President.html*

Mr. Griffith gave us a similar description of his duties, telling the committee:

> When University policy involves legal matters, I advise the President's Council and its members on the legal issues implicated . . . In addition, I supervise the work of the Office of the General Counsel, which includes interpreting University policy, participating in transactions involving the University and outside entities, overseeing litigation, assuring compliance with law, and coordinating activities with other University offices whose work involves legal issues such as human resources, risk management, and internal audit.
> —Responses of Thomas B. Griffith to the Written Questions of Senator Russell D. Feingold, Dec. 3, 2004, Q.1.

But Utah law prohibits the practice of law in Utah by any person not ''admitted and licensed to practice law within this state.'' Rule 5.5 of the Utah Rule of Professional Conduct holds that, ''[a] lawyer shall not practice law in a jurisdiction where doing so violates the regulation of the legal profession in that jurisdiction.''

So, what made Mr. Griffith think he could practice law and not be a member of the Utah bar? Mr. Griffith testified to the committee that, ''it was my understanding that in Utah in-house counsel need not be licensed in Utah, provided that when legal advice is given, it is done so in close association with active members of the Utah bar.'' When I asked him in writing to explain how he came to that understanding, and to point out which Utah laws or bar rules might apply, Mr. Griffith told us only that this, ''understanding was formed over the course of the years of practicing law and as I had interacted with in-house counsel in a variety of settings including other Utah in-house counsel who were not members of the Utah bar.''

Mr. Griffith testified that he relied on an in-house counsel exception that does not exist in Utah statutes and is not recognized by the Utah Supreme Court, as Mr. Griffith was forced to concede. It was a most convenient and self-serving excuse. There is no such ''general counsel'' exception in Utah and there never has been. He could not point to any Utah statute or Utah Supreme Court pronouncement allowing this behavior because it does not exist as a matter of law. Moreover, his predecessor at BYU and the general counsels of the other universities in Utah are all members of the Utah bar.

Previously, in his April 2003 letter to John Adams, then the president of the Utah bar, Mr. Griffith explained the matter differently and relied specifically on a former BYU general counsel and on unnamed persons at the Utah bar, saying that, ''I was told by my predecessor that the Utah bar had created'' what he referred to as a ''general counsel exception'' and that ''I didn't need to become a member of the Utah bar to perform my responsibilities. Subsequent conversations with people in your office as well as discussions with other general counsel around the state confirmed that understanding.''

Mr. Griffith has never been able to identify who at the Utah bar he claims advised him that he did not need to join the bar. This fundamental refusal to abide by the law is all the more troubling by Mr. Griffith's obstinate behavior in refusing to take the bar in order to cure his failure. This is not complicated: Get licensed. Indeed, during the course of committee consideration he admitted that when he asked a second-year law student to research the matter she came back to him and advised that he should take the bar. Yet here we are, with the Senate being urged to confirm someone to a lifetime appointment as a Federal judge on a court with jurisdiction over important cases that can have nationwide impact and that nominee has adamantly refused to follow legal requirements in his own legal practice.

Mr. Griffith did respond for the first time in his December 3, 2004 answers to some of our written questions that he had spoken to Bar President Adams in March 2002. But in his answers, Mr. Griffith reported the subject of that conversation was whether or not, in order to join the bar, he would need to take the bar examination, rather than whether or not he needed to become a bar member in the first place. Mr. Griffith explained to the committee that he took Mr. Adams' silence on the unasked question to be an endorsement of his self-serving position that he did not need to be a member of the Utah bar to carry out his responsibilities at the University.'' To Mr. Griffith, Mr. Adams' silence on this unarticulated question apparently overrode all of the rules of the Utah bar and the laws of the State of Utah.

There was one official representative of the Utah bar who told Mr. Griffith in no uncertain terms what to do; namely, take the Utah bar examination. Asked by Mr. Adams to respond to the April 10, 2003 letter, Katherine Fox, Utah bar general counsel, wrote to Mr. Griffith on May 14, 2003, telling him she was ''surprised'' he thought there was a general counsel exception, and explaining that in his circumstances there was no way to waive into the Utah bar and become a member without taking the bar exam. In her letter, and in plain, simple-to-understand words, Ms. Fox instructed Mr. Griffith to take the bar examination at the earliest opportunity. Ms. Fox wrote Mr. Griffith: ''You are fortunate, however, to have a

viable option remaining, i.e., admittance by examination and I would encourage you to start preparing your application as soon as possible.'' In addition, she ''strongly'' encouraged him to, ''review [his] current duties,'' and to either limit his work to non-legal practice or, if legal activities were unavoidable in the interim until he could pass the exam, be admitted to the Utah bar and cure his deficiency, ''to closely associate with someone who is actually licensed here and on active status.'' She closed by reminding him that the character and fitness portion of the evaluation of prospective members of the Utah bar could be affected by ''[p]racticing law without a Utah license.'' I ask unanimous consent that Mr. Griffith's letter to the Utah bar and Katherine Fox's response be printed in the RECORD.

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

UTAH STATE BAR,
Salt Lake City, Utah, May 14, 2003.

THOMAS B. GRIFFITH,
Assistant to the President, Office of the General Counsel, Brigham Young University, Provo, UT.

DEAR MR. GRIFFITH: I have been provided with a copy of your letter dated April 10, 2003 and would like to respond on behalf of the Bar to a few issues which you raised. First, I was somewhat surprised that you were informed by your predecessor at Brigham Young University's Office of General Counsel and perhaps others that Utah had created a ''general counsel rule exception.'' As you are now aware from speaking with Joni Dickson Seko, the Bar's Deputy General Counsel in charge of admissions, Utah does not have and has never had such a rule. Second, although we were optimistic that the Utah Supreme Court would approve the proposed reciprocity rule, there was no guarantee that it would happen or that the rule would emerge in the format we submitted.

It is unfortunate that you anticipated relying on the rule without having an understanding of the restrictions it imposed. However, I know of no other jurisdiction where a reciprocity rule has no conditions or restrictions such as a years of practice requirement. For instance, North Carolina's reciprocity rule requires applicants to have been physically practicing law elsewhere for at least four out of the last six preceding years.

Your reading of the new reciprocity rule is accurate and admission to the Utah State Bar requires a minimal number of years of active practice in the reciprocating jurisdiction. As both Ms. Seko and her assistant Christy Abad have informed you, the Rules for Admission do not provide for Bar staff or our governing body, the Board of Bar Commissioners, to make any exceptions to uniform application of the rules. If an applicant seeks a waiver of a rule it can only be granted by the Utah Supreme Court through a petition. This route, however, historically has not proven very fruitful for those seeking waivers. See, e.g., In re Larry Gobelman, 31 P.3d 535 (Utah 2001).

You are fortunate, however, to have a viable option remaining, i.e., admittance by examination and I would encourage you to start preparing your application as soon as possible. The application is an extensive one and it takes time to complete including making arrangement for the necessary supporting documentation. While I know you spoke with Joni about your inability to meet the May 1st deadline, I wanted you to realize that the final (and again, non-waivable) deadline (with a $300 late fee) is December 1st for the February 2004 exam. Earlier deadlines are October 1st (no late fee) and November 1st ($100 late fee).

Finally, while I regret any misunderstandings or assumptions that may have occurred, I also would strongly encourage you to carefully review your current duties as Assistant to the President in the Office of General Counsel. As noted above, we have no general counsel exception rule allowing individuals who serve in such positions to actually practice law without Utah licensure. Towards that end, it would be a prudent course of action to limit your work to those activities which would not constitute the practice of law. If such activities are unavoidable, I strongly urge you to closely associate with someone who is actually licensed here and on active status. Finally, just so you know, all applicants are required to undergo a character and fitness assessment prior to being permitted to take the examination. Practicing law without a Utah license has been an issue for some applicants in the past and has resulted in delayed admission or even denial.

Very truly yours,

KATHERINE A. FOX,
General Counsel.

OFFICE OF THE GENERAL COUNSEL,
BRIGHAM YOUNG UNIVERSITY,
Provo, Utah, April 10, 2003.

JOHN ADAMS,
President, Utah Bar Association, c/o Ray Quinney & Nebeker, South State Street, Salt Lake City, Utah.

DEAR JOHN: I need your advice. When I moved to Utah to accept the position of Assistant to the President and General Counsel of Brigham Young University, I was told by my predecessor that the Utah Bar had created what he referred to as a ''general counsel exception'' and that I didn't need to become a member of the Utah Bar to perform my responsibilities. Subsequent conversations with people in your office as well as discussions with other general counsel around the state confirmed that understanding. I have, however, always been active in bar associations where I have practiced—Washington, DC and North Carolina—and I determined that I wanted to be admitted to the Utah Bar. To that end, I prepared to take the bar exam last summer. During the course of preparing my application materials, I learned that the Utah Supreme Court was then actively considering the reciprocity rule that it has only recently adopted. In discussions with the Utah Bar Association (maybe even you—my memory is not entirely accurate on this point), I was advised that the conventional wisdom was that the Court would in fact promulgate a reciprocity rule. For that reason, I suspended my preparations and did not submit my application nor take the bar exam last summer.

I have now read the reciprocity rule recently adopted by the Court and. as far as I can tell, it may not be helpful to me. The requirement that an applicant for admission under the reciprocity rule has been practicing law in the jurisdiction from which he or she is seeking reciprocity for three of the last four years is a bar to me inasmuch as I have been in Utah and not practicing in Washington, D.C. or North Carolina for the last two and one-half years. I am writing you to see if there might be some interpretation of which I am unaware that would allow me to be admitted to the Utah Bar without taking the exam. If there is not, I will prepare to take the bar exam next summer.

I look forward to hearing from you.

Sincerely,

THOMAS B. GRIFFITH,
General Counsel.

Mr. LEAHY. This response from a career lawyer in the Utah bar made before political pressure was ratcheted up to defend a Republican nominee, seemed pretty straightforward to me. That was almost 2 years ago and still Mr. Griffith has not taken the bar exam, has not made arrangements to take the bar and, according to his testimony in answer to my questions last month, has no intention of taking the bar and becoming a member of the Utah bar despite having practiced law there for 5 years.

In an interpretation worthy of the Queen of Hearts from Alice in Wonderland, Mr. Griffith and his supporters have defied logic and reason by turning Ms. Fox's letter upside down in an attempt to characterize it as something other than it is and to condone his conduct. If he will make this self-serving interpretation in this case, what makes anyone think that he will not be the same sort of ends-oriented judge that will twist facts and law in cases he rules on from the federal bench? Ms. Fox's recommendation that he ''closely associate'' himself with a Utah lawyer until he takes the bar and becomes a member of the bar was not offered as an indefinite safe harbor that permits him to violate Utah law. Ms. Fox's letter is being misused and mis-characterized as an invitation to flout the law. This is the kind of reinterpretation in one's own interest that characterizes judicial activism of the worst sort when employed by a judge.

Although he can point to no time before having read Ms. Fox's letter where he used the phrase ''closely associate,'' and can show us no evidence that he arranged his work at BYU in accordance with this advice, Mr. Griffith has in hindsight tried to assert that he somehow always knew he needed to ''closely associate'' with Utah lawyers. Indeed, he variously responded to the committee that in his view he ''closely associated'' if he first gave legal advice to a University official in a private meeting and then sometime later told a member of his staff who was admitted to the Utah bar about it.

He points to former bar president John Adams' letter of June, 2004, and to Utah bar executive director John Baldwin's letter of July, 2004 as support for his position, but these letters do not bolster his case. First of all, each is written long after Mr. Griffith's inquiry of the bar, and long after Katherine Fox told him to take the bar, but conveniently provided by his friends and supporters in the summer of 2004 as the investigation into his bar membership was beginning. In any case, neither of the letters says anything to undermine Ms. Fox's letter. Indeed, the support letters only speak in the vaguest, most noncommittal terms. Mr. Adams says that Ms. Fox's letter ''accurately answered your questions, and

. . . recommended a course of action to follow in your work so long as you were not licensed in the State of Utah.''

Mr. Baldwin's letter is even stronger, telling Mr. Griffith: ''[T]hose who engage in the practice of law in Utah must be licensed by the Utah Supreme Court through the Utah State bar. There is no general counsel exception rule.'' Likewise, the letter Mr. Griffith produced from five former presidents of the Utah bar is of no effect. Aside from their obvious interest in supporting Senator HATCH's candidate who President Bush nominated and who is affiliated with one of the State's most powerful and influential institutions, their letter does not say much. They reiterate that there is no general counsel exception to the Utah bar membership rules, and say only that if a lawyer is not practicing Utah law he may closely associate himself with a Utah lawyer to do those parts of the job. They make no judgment about the sort of work Mr. Griffith is doing, or even whether, in their words, he ''lived up to this standard'' or whether his vague implementation of how he ''closely associated'' was ever explained to them, let alone whether they would have viewed it as passing muster.

The other person we know of who looked at this question for Mr. Griffith was a second-year law student he asked to research the Utah laws and practice on bar admissions regarding in-house counsel in January 2004. By that time, Mr. Griffith had already been practicing law in Utah for 4 years. One can suspect he made this request at that time because his subsequent nomination was then under consideration at the White House. According to Mr. Griffith, who now seeks to claim attorney-client privilege and refuses to provide the committee and the Senate with the materials, she did not definitively complete her research: ''She recommended, therefore, that the safest course for a Utah corporation would be to ask its in-house lawyers to join the Utah bar.'' When we asked for the memorandum written by this law student, we were stonewalled by Griffith and BYU, which claimed privilege for this document. It is not clear to me why the university would be able to claim privilege for a document prepared in response to Mr. Griffith's personal problems with bar membership, or why once he himself revealed its contents we are not now entitled to see it. Nonetheless, we have not been able to see it.

But, whatever the status of the specific memo, it comes down to this: A second-year law student in a truncated research assignment had enough sense to recommend that in-house counsel join the Utah bar. If she had known that such in-house counsel admits to practicing law in Utah, I suspect her advice would have been even more definitive. Of course, that is the prudent course and the one consistent with Utah law. After 5 years, Mr. Griffith has refused to take the normal steps taken by scores of others every year in Utah and thousands of lawyers around the country and take the State's bar exam in order to gain admission to the State bar.

Mr. Griffith has offered nothing in the way of legal authority or analysis that might begin to refute the common-sense conclusion one must reach after an examination of the law. Mr. Griffith has been practicing law in Utah without a Utah license. His excuses to the contrary are insufficient and wrong. He admits that he is practicing law in Utah. He does not have a Utah license to do so. After 5 years, he would appear to be in violation of Utah Code Section 78–9-101, and Rule 5.5 of the Utah Rules of Professional Conduct. There is no ''general counsel'' or ''in-house counsel'' exception on which he can rely to justify his practice of law in Utah since 2000 without having become a member of the Utah bar.

In addition to that threshold matter of practicing law without being a member of the Utah bar, there are other reasons for serious concern about Mr. Griffith's fitness to be a member of the United States Court of Appeals for the District of Columbia Circuit. I have already alluded to his creative, ''activist'' reading of the facts in law in connection with his bar admission problems. In addition, he has spoken in Federalist Society circles of his judgment that President Clinton was properly impeached and that he would have voted for his conviction and removal from office. Given his role as Senate Legal Counsel at the time, these public musings are unseemly and unsound. Rather than campaigning for this nomination, Mr. Griffith would have better spent his time preparing for and taking the Utah bar exam.

His judgment is likewise brought into serious question by his views on title IX of our civil rights laws. This charter of fundamental fairness has been the engine for overcoming discrimination against women in education and the growth of women's athletics. I urge all Senators to think about our daughters and granddaughters, the pride we felt when the U.S. women's soccer team began winning gold medals and World Cups, the joy they see in young women with the opportunity to play basketball and ski and compete and grow.

With the recent reinterpretation of title IX being imposed by this administration in ways that will no doubt be challenged through the courts, we may now understand why the Bush administration sees the appointment of Mr. Griffith to the D.C. Circuit Court as such a priority. His narrow views on title IX were unveiled during his efforts as a member of the Bush administration Secretary of Education's Commission on Opportunity in Athletics, to constrict the impact of title IX. Does anyone doubt that he would rule that the Bush administration's revision through regulations should be upheld?

The U.S. Supreme Court recently decided that whistleblowers are protected in the title IX context. That was a close 5–4 decision in which Justice O'Connor wrote for the majority. Just the other day the Justices refused to hear a challenge to an appellate court decision that essentially found that title IX could not be blamed for cutbacks in men's athletic programs. These recent legal developments regarding title IX serve to remind us how important each of these lifetime appointments to the Federal courts is. In light of the record on this nomination, I am not prepared to take a chance on it and will vote against it.

It is my understanding we are voting at 10.

The PRESIDING OFFICER (Mr. VITTER). The Senator is correct.

Mr. LEAHY. Have the yeas and nays been requested?

The PRESIDING OFFICER. They have not yet been requested.

Mr. LEAHY. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent to be given equal time as the Senator from Vermont.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I am sorry. I could not hear.

Mr. HATCH. I ask that I be given the same amount of time that the Senator from Vermont had to speak on Mr. Griffith.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, I probably would not object. I would point out that I was responding to the distinguished Republican leader who had spoken an equal amount of time on Mr. Griffith. I had spoken yesterday considerably less time, on the same nomination, than the distinguished senior Senator from Utah. I also know both the Republican and Democratic cloakrooms have notified their Members that we are going to vote at 10. There are a number of hearings that have been established based on that. As a matter of courtesy, I am not going to object, but I wanted the distinguished Senator from Utah to know I took the same amount of time the distinguished Republican leader did on the same thing, and overall less time than the distinguished Senator from Utah has taken. I will not object.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Utah.

Mr. HATCH. Mr. President, I appreciate my colleague not objecting, and I will limit myself to about half the time that he has taken this morning just out of courtesy to him.

I know Tom Griffith. We all know Tom Griffith. Tom Griffith was general counsel of the Senate. He served the Senate well. He did it in a nonpartisan way, even though he is a Republican. He helped all of us during the impeachment. Both sides acknowledge that he was terrific. He has all the academic and legal credentials necessary to fulfill this position. He is a person who is a consensus builder, someone who tries to get along with everybody and who, I think, will be perfect on this particular court.

So I hope everybody will vote for Tom. He is a member of our family. He served us all. As a general rule, in the past, people who have served us such as Tom Griffith has would pass this body 100 to zip. Unfortunately, we have had some very forceful partisan politics rear its ugly head in some of these judgeship issues, and from time to time it may have been on both sides, but in this particular case it has been all on one side.

I get a little tired of hearing the same arguments over and over again. The fact is, when President Bush 1 left office there were 54 holdovers with the Democrats in control of the Senate, and he only served 4 years. One could imagine how many there would have been if he served 8 years. The fact is, the all-time confirmation champion was Ronald Reagan who had 382 judges confirmed in his 8 years, but he had 6 years of a Republican Senate to help him. President Clinton got almost the same number, a total of 377, with only 2 years of his own party to help him.

As chairman of that committee, I know I did everything in my power to give the Clinton nominees an opportunity to get an up-or-down vote, and when they reached the floor I think virtually all of them got an up-or-down vote without any delays or filibusters.

The Clinton administration was treated very fairly. There were people left over at the end of his administration, and he had 8 years, no more than were left over basically when President Bush I left the Presidency.

Getting back to Tom Griffith, as most of my colleagues know, Tom served as Senate legal counsel for 4 years so many of us have had firsthand experience with him.

Because the D.C. Circuit reviews cases involving Federal statutes, regulations, and other important matter, this is a tough assignment. Many observers believe that the D.C. Circuit's jurisdiction makes it second in importance to that of the U.S. Supreme Court.

Tom Griffith is up to the task of sitting on this court.

At some length yesterday, I detailed his qualifications.

Time is short today, so I will make only a few summary comments.

In order to become the exceptional lawyer that he is today, Tom Griffith had to gain an exceptional educational foundation.

He accomplished this first as an undergraduate at my alma mater, Brigham Young University. He graduated summa cum laude and was the valedictorian of the BYU College of Humanities.

Tom then attended the University of Virginia School of Law, where he was a member of the law review.

Upon graduation, Tom joined the leading Charlotte, NC, law firm of Robinson, Bradshaw, and Hinson where he was an associate specializing in commercial litigation.

In 1989, Tom moved to Washington, DC, to become an associate, and then a partner, in the firm of Wiley, Rein and Fielding—by all accounts, a highly-regarded law firm.

He began his four year stint as Senate legal counsel in 1995 and served through the very challenging impeachment trial of President Clinton that concluded in early 1999.

Upon departing from the Senate, Tom returned to Wiley, Rein and Fielding for a period of time before he went to Utah in 2000 to serve as assistant to the president and general counsel of Brigham Young University. He serves in that capacity today.

This is a bare bones sketch of a distinguished professional career. Along the way, Tom Griffith has faced many challenges and he has impressed many with his legal skills.

Here is what associate dean and professor of law, Constance Lundberg, of the J. Reuben Clark School of Law has to say about Mr. Griffith:

> [Tom] is also a lawyer of unexcelled ability. He understands the differences between law and policy and has a deep understanding of the powers and prerogatives of each of the three branches of government. He is immensely fair and compassionate. The laws and Constitution of the United States could not be in better hands.

These comments do not stand alone in academic circles. Harvard Law Professor William Stuntz has said the following about Tom:

> I know a great many of talented men and women in America's legal profession. I have taught more than three thousand students at three top law schools, and I have friends scattered across the country in various kinds of law practice and in academics. I do not know anyone whom I would rather see on the federal bench than Tom Griffith. If he is confirmed, he will not be a good judge. He will be a great one.

I think that both of these professors have made assessments that we would be wise to take into account.

Over the past 10 years, Tom has demonstrated his commitment not only to the legal profession but to the broader justice system. He has volunteered a great deal of time in training judges and lawyers in Eastern Europe, impressing many, including Mark Ellis, the executive director of the International Bar Association, who had this to say about Tom Griffith:

> The duty of a judge is to administer justice according to the law, without fear or favor, and without regard to the wishes or policy of the governing majority. Tom Griffith will fervently adhere to this principle.

We in the Senate have ample evidence that Tom Griffith will place the law over partisan politics. Tom was Senate legal counsel during the Clinton impeachment trial and won praise from those on both sides of the aisle. Yesterday, I quoted from Senator DODD's speech in tribute to Tom on his departure from the Senate. Senator BENNETT, my colleague from Utah, has already explained the constructive role that Tom played in keeping the Senate together during the impeachment trial. I agree that the reputation of the Senate was enhanced rather than degraded through that time, in part because of the steady hand and solid guidance of Tom Griffith.

Few nominees that come before the Senate are as well-known by Senators as Tom Griffith and we know that he can handle complex problems in a charged atmosphere in a manner that brings consensus.

I think that the qualities that Tom displayed as Senate legal counsel are exactly those that we need on the Federal bench.

Many agree with this assessment. For example, here is what one of our Nation's leading appellate lawyers, the Clinton administration's Solicitor General Seth Waxman, had to say about Mr. Griffith:

> I have known Tom since he was Senate Legal Counsel and I was Solicitor General, and I have the highest regard for his integrity . . . For my part, I would stake most everything on his word alone. Litigants would be in good hands with a person of Tom Griffith's character as their judge.

This strong sentiment in favor of Tom Griffith's competence and character is shared, not surprisingly, by his former law partners and mentors. Fred Fielding, former White House Counsel to President Reagan and former chairman of the American Bar Association's Standing Committee on the Federal Judiciary, has described Tom Griffith as ''a very special individual and a man possessed of the highest integrity. He is a fine professional who demands of himself the very best of his intellect and energies.''

Another law partner of Mr. Griffith, Richard Wiley, has this to say about his qualifications:

> Tom is an outstanding lawyer, with keen judgment, congenial temperament and impeccable personal integrity. He would bring great expertise and fair-minded impartiality to the bench and, in my judgment, would be a considerable credit to the D.C. Circuit and the Federal Judiciary as a whole.

Tom Griffith has the education, experience, judgment, and character to make an outstanding member of the Federal judiciary. I commend President Bush for nominating an individual from Utah who has a proven track record as a lawyer and has strong bipartisan support.

In addition to this affirmative discussion of Tom Griffith's qualifications and bipartisan support, I do need to respond to the few arguments that have been raised against his nomination by some on the other side of the aisle.

First, my friend from Vermont, Senator LEAHY, referred to Mr. Griffith

yesterday as someone who ''admittedly practiced law illegally first in the District of Columbia and then in Utah.'' Mr. President, this statement is patently false.

Mr. Griffith has admitted no such thing because he did no such thing.

No court or administrative body, including no bar association, anywhere has ever concluded that Mr. Griffith has, in the Senator from Vermont's ill-chosen words, practiced law illegally.

Neither have they found that Mr. Griffith engaged in the unauthorized practice of law, either in the District of Columbia or in Utah.

Let me once again set this record straight with respect to both of these jurisdictions.

In 2001, Mr. Griffith discovered that his D.C. bar membership had been suspended for failing to pay his annual dues. As soon as he became aware of the problem, he rectified it. He paid his dues in full and was promptly reinstated as a bar member in good standing.

He remains a member in good standing today.

This matter involving Mr. Griffith's bar dues does involve several unfortunate mistakes. In the early 1990s, Mr. Griffith worked for a large law firm in Washington and became accustomed to the firm's practice of paying its attorneys' bar dues.

When he returned to that firm following his service as Senate legal counsel, he wrongly assumed the firm was once again paying his bar dues. He accepts full responsibility for the oversights and, as I said, is today a member in good standing.

Mr. President, the only, I repeat, the only question is whether this error was anything other than inadvertent. And Mr. Griffith has answered that question with a clear and resounding no. No one, including the Senator from Vermont, has offered a shred of evidence to suggest otherwise.

Each year, more than 3000 lawyers in the District of Columbia alone—and, I understand, a number of sitting judges—similarly see their law license suspended for failure to pay bar dues.

As in Mr. Griffith's situation, this is an administrative suspension, not a disciplinary suspension.

Despite the rhetoric from the Senator from Vermont, we do not have thousands and thousands of lawyers practicing illegally in the Nation's Capital.

In a letter to the Judiciary Committee dated June 14, 2004, former ABA Presidents Bill Ide and Sandy D'Alemberte wrote:

> By immediately paying his dues when he became aware of the oversight, Tom took the proper course of action. According to D.C. bar counsel, such an oversight is entirely common and of no major concern.

Yesterday the Senator from Vermont was trying to turn something entirely common and of no major concern into something untoward and of very grave concern. It will not work.

The story is no different with respect to the Utah chapter of this story.

Mr. Griffith graduated from the University of Virginia School of Law and practiced law in North Carolina and Washington, DC, for 15 years, including service as Senate legal counsel.

The position he accepted of general counsel of Brigham Young University was very different, in both content and location, than his previous experience. He consulted with Utah attorneys requiring Utah's requirement for in-house counsel, and he has always complied with the advice he has received in this regard.

Simply put, the advice he received was that he need not become a member of the Utah bar, so long as he worked with a bar member when engaged in legal practice activities. No one, including the Senator from Vermont, has documented that he has not met this standard.

In a letter to the Judiciary Committee dated June 28, 2004, five former presidents of the Utah bar affirmed that ''a general counsel working in the state of Utah need not be a member of the Utah bar provided that when giving legal advice to his or her employer that he or she does so in conjunction with an associated attorney who is an active member of the Utah bar.''

In a letter dated July 2, 2004, John Baldwin, executive director of the Utah bar, similarly affirmed that ''those who follow that advice are not engaged in the unauthorized practice of law.''

Mr. Griffith not only complied with the letter of the advice he received, his actions are consistent with the spirit of that advice as well.

In a letter to the editor of the New York Times dated July 4, 2004, law professors and legal ethics experts Monroe Freedman of Hofstra University and Thomas Morgan of George Washington University, emphasized that the requirement of bar membership is not a rule of legal ethics. Rather, it assures the public—those to whom lawyers offer their services—that lawyers are competent.

Their letter states:

> The requirement of membership in a particular bar is not in itself a rule of ethical professional conduct, but a lawyer's guild rule . . . designed to restrict competition . . . At best, the requirement of a license is intended to assure that one who holds himself out to the public as a lawyer is indeed competent to serve as a lawyer. In that regard, there is no question about Mr. Griffith's competence, which is the only ethical issue that is material.

Obviously, this does not apply to an in-house counsel who does not hold himself out to the public. Brigham Young University, Mr. Griffith's employer, was well aware that he was not a bar member and was thoroughly satisfied with both his status and his service.

The unsubstantiated charge that Mr. Griffith has practiced law without a license is pure hokum. Or as I explained yesterday, in the opinion of Abner Mikva, a former Democratic Congressman, White House Counsel to President Clinton, and former Chief Judge of the D.C. Circuit, this charge amounts to ''a whole lot of nothing.''

Judge Mikva has it right. My friend from Vermont is simply wrong.

The other area of criticism involves Mr. Griffith's views on title IX, a statutory provision which provides equal opportunities for women in college sports. Tom has proven that he is a strong supporter of title IX and women's rights.

In fact, he was appointed to the Secretary of Education's Commission on Opportunity in Athletics by Rod Paige in part because of his outspoken support of title IX's objectives.

In response to written questions from members of the Judiciary Committee, Tom Griffith expressed his personal convictions about title IX. He wrote:

> I am deeply committed to Title IX in particular and to expanding and advancing opportunities for women in all areas of our society. I am committed to that because it is the right thing to do. But it is also personal for me. I am the father of five daughters and a son. My entire adult life, I have been an outspoken advocate for expanding opportunities for women in part because it means more opportunities for my daughters and a better society for my son. Those who know me best know that about me.

Let us consider what those who know Tom Griffith say in this regard. Brian Jones, former title IX commissioner and general counsel of the Department of Education, said:

> During the Commission's months of deliberation it was quite clear that every member of the Commission—including Tom—strongly supports Title IX and is immensely proud of the progress brought about by its passage. . . . Tom was consistently a member of the Commission who was not only willing but also eager to engage every commissioner's opinions—listening and deliberating in a thoughtful manner, in a sincere effort to bridge disagreements and seek consensus where possible.

Graham Spanier, president of Penn State University and another former title IX commissioner, had this to say:

> During the many months that Mr. Griffith served on the Commission charged with reviewing Title IX, I found him to be supportive of the law that established Title IX. He was, in fact, outspoken in his support for the law while thoughtfully reflecting on matters of interpretation and commenting on potential refinements to enforcement protocols. . . . During our work, Mr. Griffith stated his belief that Title IX was one of the great landmarks in civil rights in our Nation.

Ted Leland, former cochair of the title IX commission and director of athletics at Stanford University, affirms Tom's clear commitment to title IX:

> During our numerous public meetings, I found Mr. Griffith not only a diligent commission member, but a staunch supporter of Title IX.

The list goes on, but because these baseless allegations linger, I want to also offer the views of Tom's colleagues at Brigham Young University. The executive director of BYU Women's Athletics, Elaine Michaelis, applauded Tom's efforts:

Tom has been very supportive of our women's athletic program, the coaches, and the athletes. I believe that he is committed to women and minorities and to fairness in all aspects of the law.

B.R. Siegfried, an associate professor of English literature and Women's studies at BYU, said the following:

I am an especially fierce advocate of equality for women, and of the civil liberties that lend themselves to the expansion and development of women's opportunities. . . . Tom is and has been a steadfast and enthusiastic advocate for women. In a local context in which there is tremendous social pressure to gloss over gender issues, he has spoken out repeatedly in support of fairness and justice. His support has been constant and resolute, and his words are founded on deeds of practical service.

As a member of a commission overseeing a review of title IX's application, Tom recommended some changes. He is the kind of person to take such a role seriously; I am sure he did not consider it sufficient to fill a chair and not bring his considerable judgment, insight, and experience to bear in a constructive way.

In some respects, however, Tom's recommendations are beside the point. As the many lawyers who now serve here in the Senate, lawyers wear many different hats over the course of their careers.

When Stephen Breyer, for example, was chief counsel to my friend, the Senator from Massachusetts, believe me, we did not always see eye to eye on issues. But when he was nominated to the U.S. Court of Appeals and later to the Supreme Court, I was confident that he would be able to put politics aside, apply the law to the facts, and make fair and objective judgments.

I hope there is no partisan double-standard at work here. Tom Griffith is also a fair, reasonable, and accomplished lawyer who has served us well here in the Senate and who will properly move into a judicial role. There is no justification for treating him differently because he happens to be the nominee of a Republican President.

Now let's address Tom's supposedly radical policy views. The Office of Civil Rights at the Department of Education uses a three prong test to determine an educational institution's adherence to title IX. That test requires that an institution demonstrate one of the following: that the male to female ratio of athletes is substantially proportionate to the male to female ratio of student enrollment; that the institution has a continuing practice of program expansion for members of the under-represented gender; or that the institution is fully and effectively accommodating the athletic interests and abilities of the under represented gender.

The first prong, the substantial proportionality test, has been designated by the Office of Civil Rights as a safe harbor. If an institution meets the requirements of a numeric formula, the university can avoid liability under title IX. The commission found that many institutions have transformed substantial proportionality into strict proportionality.

The problem represented by this legalese is clear. This automatic adherence to a numeric formula means that a quota system has been established. Regardless of the number of young women interested in collegiate sports, colleges and universities must offer equal numbers of athletic slots.

This is a radical revision of title IX's intention, which was to provide equal opportunity for participation in college sports, not equal results.

The perverse result of shifting from equal opportunity to equal results has been documented on numerous occasions. It has required closing down men's sports teams in swimming, wrestling, gymnastics, and baseball. In 1999, for example, Providence College cut its 78-year-old baseball program to bring it within the proportionality requirement.

In 1996, California State University at Bakersfield's wrestling program, a two-time PAC 10 champion, was eliminated to conform to the proportionality requirement. A General Accounting Office study found that from 1985–86 to 1996–97, no less than 21,000 male athletic spots disappeared, a 12-percent drop overall.

Carol Zaleski, the former president and executive director of USA Swimming, had this to say:

The unfortunate truth is that Title IX has evolved into something never intended. The act was intended to expand opportunity. The interpretation by the Office of Civil Rights and the evolved enforcement has turned into a quota system. Title IX is a good law with bad interpretation.

Tom Griffith argued that while such rigid numerical quotas may be easy to administer, they fail actually to provide women with more athletic opportunities and that using this quota went beyond the powers Congress had allocated to the Department of Education.

Tom has hardly been the only individual opposed to this quota approach. Our former colleague, Senator Birch Bayh of Indiana, said:

The word quota does not appear [in Title IX] . . . What we were really looking for was equal opportunity for young women and for girls in the educational system.

Despite divergent views over the best application of the law, Tom Griffith wholeheartedly joined the recommendations of the commission to strengthen title IX and ensure that the test did not simply become a quota. Specifically, he joined recommendations calling for clearer guidelines for implementation of title IX and a method of ''demonstrating compliance with Title IX's participation requirement that treats each part of the [three-part] test equally.''

The question here is not whether Tom Griffith agrees with a particular policy evaluation. The real question is whether he supports women's rights and is committed to equal opportunity. The answer to that is a resounding answer is yes.

Three Associate Deans at Brigham Young University Law—Constance Lundberg, Katherine Lund and Mary Hoagland—wrote to me and had this to say about Tom Griffith:

In specific instances of which we have personal knowledge, [Mr. Griffith] has fought for the promotion and recognition of women, including ethnic minorities. His support has been vigorous even when faced with substantial administrative roadblocks. . . . In our experience, some men in similar roles are not comfortable working with women as colleagues. Tom, on the other hand, seeks out and respects women's opinions. Indeed, if every person in university administration were as evenhanded on gender issues as Tom, Title IX and other ameliorative measures would be moot.

In both of these areas of criticism—whether he engaged in the unauthorized practice of law and whether he supports equal opportunity for women—the pattern is the same. The allegations bear no relationship whatsoever to the facts, and those who know Tom Griffith best and have worked with him most strongly support his nomination to the U.S. Court of Appeals.

I do think that this nominee has been treated badly, and I hope Senators will do the right thing and allow him to take this very important position. He will be a consensus builder and will work to make sure the law is implemented as the law was intended to be.

At one time, when another person was being nominated for this position, I had those in the minority say: You ought to nominate Griffith. Some of the chief staff people said: Why not nominate Tom Griffith? These senior staff members said that Tom would be a slam dunk because everybody knows how great he is and what a good person he is.

Well, I fought to get him nominated all the way to the White House itself. Almost immediately after he was nominated, we instead hear some of these ridiculous arguments that, if not frivolous, certainly off the mark. What is important is we have a man of integrity, ability, and capacity who could fulfill this position in a way that might bring other people together. We all know it because we have seen him for four solid years right here in the Senate doing the Senate's business.

I appreciate my colleagues on the other side, and especially those who are willing to vote for Tom Griffith. I think he deserves their vote. He deserves the vote of all of us, and I hope everybody in this body will give him a fair vote today.

Mr. FEINGOLD. Mr. President, I will vote no on the nomination of Thomas Griffith to be a Judge on the D.C. Circuit Court of Appeals.

The D.C. Circuit is widely regarded as the most important Federal circuit. It has jurisdiction over the actions of most Federal agencies. Many of the highest profile cases that have been decided in recent years by the Supreme Court concerning regulation of economic activity by federal agencies in

areas such as the environment, health and safety regulation, and labor law, went first to the D.C. Circuit. In the area of administrative law and the interpretation of the major regulatory statutes such as the Clean Air Act, the Clean Water Act, the Occupational Safety and Health Act, and the National Labor Relations Act, the D.C. Circuit is often the last word, as the Supreme Court reviews only a tiny minority of circuit court decisions.

After the confirmation of Judge Janice Rogers Brown last week, there are 6 judges on the D.C. Circuit who were appointed by Republican Presidents, and four by Democrats, and there are two vacancies. President Clinton, of course, made two nominations that were never acted upon by the Senate Judiciary Committee. In one case, the committee held a hearing but never scheduled a vote on attorney Alan Snyder, and in another case, Clinton nominee and now Harvard Law School Dean Elena Kagan wasn't even given the courtesy of a hearing.

I am disappointed that the Bush administration has not been willing to seek a compromise on judicial nominees, and on this circuit in particular. At the beginning of President Bush's first term, there were enough vacancies to accommodate the two nominations by President Clinton who were treated so badly in the 106th Congress and allow President Bush to nominate additional judges to the circuit. The administration squandered an opportunity to change the tone and repair some of the damage done to the nomination process by previous Congresses.

In light of this history, and the importance of this circuit, I believe it is my duty to give this nomination very close scrutiny. After reviewing Mr. Griffith's record and his testimony at two different Judiciary Committee hearings, I do not believe he should be confirmed to a lifetime appointment to this important court. Let me take a few minutes to outline the concerns that have caused me to reach this conclusion.

Mr. Griffith's adherence to professional rules of conduct and State laws regarding bar membership has been less than scrupulous. In the District of Columbia, Mr. Griffith twice was administratively suspended for failure to pay his bar dues, one time for over 3 years. During that time, Mr. Griffith continued to practice law in the District and then in Utah. This might not be all that troubling if he had later been honest about the administrative suspensions he received for failure to pay his dues. Instead, Mr. Griffith failed to note those suspensions in answering two separate questions on his Utah bar application in November 2003.

First, he answered ''no'' when asked if he had ''ever been disbarred, suspended, censured, sanctioned, disciplined, or otherwise reprimanded or disqualified, whether publicly or privately, as an attorney.'' At his hearing before the Judiciary Committee, Mr. Griffith claimed that he interpreted the question as referring only to disciplinary suspensions, and that he considered his suspension from the D.C. bar to be administrative. Given the clear language of the question, and the fact that the application gives an applicant the opportunity to explain a yes answer, Mr. Griffith's no response is cause for concern.

In addition, Mr. Griffith answered yes when asked whether he had ''ever given legal advice and/or held himself out as an attorney, lawyer, or legal counselor in the state of Utah.'' He stated:

> Since August 2000, I have served as Assistant to the President and General Counsel at [BYU]. When called up to act in my capacity as an attorney, I have done so as a member of the bar of the District of Columbia.

At the time he answered this question in 2003, Mr. Griffith certainly was aware that his license in D.C. had been suspended from November 1998 to November 2001.

Even more disturbingly, Mr. Griffith has practiced law in Utah without a Utah law license, and still does so to this day. Utah law does not provide that in-house counsel do not need to obtain a Utah law license. Yet Mr. Griffith failed to seek guidance from the Utah bar for almost three years on what he could and could not do without a Utah law license when he began working for BYU. Instead, according to this testimony, Mr. Griffith relied on his own professional experience and discussions with other in-house counsel in Utah. None of these people told him such an exception existed, yet he did not make inquiries to the bar until 2003. In 2003, Mr. Griffith received a letter from Katherine Fox, general counsel to the Utah bar, which indicated that he should limit himself to work that would not constitute the practice of law, and if he had to practice law, he should do so only in close association with members of the Utah bar. She also advised him to sit for the bar exam as soon as possible, and warned him that lawyers who have practiced in the state without a Utah license have later had difficultly obtaining such a license.

Since he received that letter, Mr. Griffith has had four opportunities to sit for the Utah bar, but has instead insisted that he may practice law in Utah without a law license so long as he works in close association with members of the Utah bar. He made it abundantly clear at his second hearing that he does not intend to sit for the Utah bar exam. I suppose that since he is now about to be confirmed to a D.C. Circuit seat for life, he won't have to. But his attitude toward a basic responsibility of every practicing lawyer was disturbing.

In response to these concerns, Mr. Griffith stated at his hearing that from the very beginning of his work as general counsel at BYU he has worked in close association with attorneys in his office who were licensed to practice in Utah. When I questioned him about his adherence to this close association requirement during his time in Utah, I was troubled by what I learned. Although Mr. Griffith insists that he has always worked in close association with members of the Utah bar when dispensing legal advice, he can provide no documentation of that practice whatsoever. It is not even clear how Mr. Griffith interprets the close association requirement. He testified, for example, that he does not require a licensed member of the Utah bar to be present on phone calls where he dispensed legal advice.

Mr. Griffith's failure to document his close association with other attorneys is disturbing and revealing, in light of the letter from Katherine Fox, which warned him about the consequences that practicing law without a license might have on his eventual application to the bar. It also makes it even more difficult to believe that when he began working for BYU he was aware of the issue and was taking steps to ensure he involved members of the Utah bar in activities that would be considered giving legal advice.

Mr. Griffith did submit several letters written beginning last summer from current and former officers of the Utah bar, to support his position that he has not violated bar rules so long as he works in close association with members of the Utah bar. These letters were written, however, long after Mr. Griffith approached the bar about a general counsel exception, and long after he received notice from Ms. Fox of the Utah bar's position on it. Furthermore, these letters reiterate that there is no general counsel exception to the requirement that a lawyer practicing law in Utah must be a member of the Utah bar.

Mr. Griffith's entire approach to the issue of his Utah bar membership has been to suggest that he knew all along what he was doing and took care to avoid any improper conduct. But a prudent and careful person, aware of and being careful to abide by restrictions on his activities, would have documented his actions. It seems clear to me that much of Mr. Griffith's argument is simply a post hoc rationalization. He has chosen to stick to his story and try and convince the Senate that he was fully aware of the Utah license issue from the beginning and acted at all times in accordance with part of the advice he received only in 2003. I find Mr. Griffith's explanations not credible and disdainful of his professional obligations. This is not the kind of conduct that the public has a right to expect from someone who will sit on the second most important court in the land.

Mr. President, I am not predisposed to vote against judicial nominees. In fact, I have voted for over 90 percent of this President's choices. Mr. Griffith served the Senate with distinction, and his foremost supporter is the former chairman of the Judiciary Committee,

for whom I have great regard. But we have an affirmative duty to place on the bench judges who adhere to the ethical standards of the legal profession. I am not satisfied that Mr. Griffith meets that test, and I will vote no.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Thomas B. Griffith, of Utah, to be United States Circuit Judge for the District of Columbia? The yeas and nays have been ordered. The clerk will call the roll.

The assistant journal clerk called the roll.

Mr. MCCONNELL. The following Senators were necessarily absent: the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Pennsylvania, (Mr. SPECTER).

Mr. DURBIN. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

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

The result was announced—yeas 73, nays 24, as follows:

[Rollcall Vote No. 136 Ex.]

YEAS—73

Alexander	Dodd	Martinez
Allard	Dole	McCain
Allen	Domenici	McConnell
Baucus	Dorgan	Murkowski
Bennett	Durbin	Nelson (FL)
Biden	Ensign	Nelson (NE)
Bingaman	Enzi	Obama
Bond	Feinstein	Pryor
Brownback	Frist	Reid
Bunning	Graham	Roberts
Burns	Grassley	Schumer
Burr	Gregg	Sessions
Carper	Hagel	Shelby
Chafee	Hatch	Smith
Chambliss	Hutchison	Snowe
Coburn	Inhofe	Stevens
Cochran	Inouye	Sununu
Coleman	Isakson	Talent
Collins	Kohl	Thomas
Conrad	Kyl	Thune
Cornyn	Levin	Vitter
Craig	Lieberman	Voinovich
Crapo	Lincoln	Warner
DeMint	Lott	
DeWine	Lugar	

NAYS—24

Akaka	Feingold	Mikulski
Bayh	Harkin	Murray
Boxer	Johnson	Reed
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Clinton	Landrieu	Sarbanes
Corzine	Lautenberg	Stabenow
Dayton	Leahy	Wyden

NOT VOTING—3

Jeffords	Santorum	Specter

The nomination was confirmed.

The PRESIDING OFFICER. The President will be notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

The Democratic leader is recognized.

ORDER OF PROCEDURE

Mr. REID. Mr. President, what is the issue before the Senate?

The PRESIDING OFFICER. The Chair was about to lay down the Energy bill.

Mr. REID. It is my understanding the Senator from Nebraska wishes to speak for 3 minutes as in morning business prior to turning to the Energy bill. I ask consent that be the case.

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

230TH BIRTHDAY OF THE ARMY

Mr. HAGEL. Mr. President, I rise this morning to wish the U.S. Army happy birthday. It was 230 years ago today, June 14, 1775, that the Continental Army of the United States was born. Over the past 230 years, millions of men and women have served in the oldest branch of our Armed Forces. Their honor, courage, sacrifice, and service are woven into the culture of this great, country.

The principles of duty, honor, and country have been the foundation of our Army and of our country. Their honor, their courage, their sacrifice, and service are woven into the culture of this great Nation. It is America. Every generation of Americans who have served in the U.S. Army, from the Continental Army to our fighting men and women serving today in Iraq and Afghanistan, have been shaped by these principles, have molded lives in ways that are hard to explain.

Just as the U.S. Army has touched our national life and history, it has touched the lives of citizens of the world.

The U.S. Army has protected American values of liberty, freedom, and democracy and made the world a more secure, prosperous, and better place for all mankind.

It is only appropriate we recognize the monumental contributions of this great institution, contributions to America and the world.

On this 230th birthday of the U.S. Army, we also recognize and thank those who have sacrificed and served. We thank their families. Their examples are an inspiration to those who have had the privilege to serve in the U.S. Army. They will continue to inspire future generations.

On this, the 230th birthday of the Army, I say happy birthday to the Army. In the great, rich tradition of the U.S. Army, and as a proud U.S. Army veteran, I proclaim my annual Senate floor ''hoo-haw.''

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. 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 that the order for the quorum call be rescinded.

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

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, as the senior Senator from Nebraska said, today, June 14, is the 230th birthday of the U.S. Army.

Although we commend the service of the men and women of all branches, Active Duty and Reserve components, on this day the Senate Army Caucus, which I cochair with my colleague, Senator AKAKA, particularly celebrates the soldiers of the U.S. Army as they answer the Nation's call to duty.

These brave men and women are giving something back to their country every day through the sacrifices they and their families make. Mr. President, 230 years ago, the Army was established to defend our Nation. Today, its mission remains the same as throughout the Army's history. America's soldiers have always answered the call to end tyranny, free the oppressed, and light the path to democracy.

As citizens and lawmakers, we appreciate our freedoms and our inalienable rights of life, liberty, and the pursuit of happiness. But we know our freedoms are not free and should not be taken for granted. The men and women of the Army and the other branches of the Armed Forces shoulder the load of being on freedom's frontier, defending our very way of life.

On this day, it would be easy for us as citizens of this great Nation to take for granted our God-given rights. In our daily routines, we all too often overlook the selfless commitment the American soldier is making to protect our national interests and freedoms around the globe in over 120 countries. Each mission is contributing to our safety and well-being here at home. For this reason, we should remember that June 14 is the day the U.S. Army was established and celebrates its birthday.

The men and women serving in the U.S. Army embody the ideals set forth in the Soldier's Creed and Warrior Ethos. They have the unwavering belief that they will be victorious in whatever they do. This belief stems from knowing that the American people support them, and from the confidence they have in their leaders at every level. They are well equipped and well led, and they will perform their sacred duty. Just listen to these words our soldiers live by every day:

I will always place the mission first.
I will never accept defeat.
I will never quit.
I will never leave a fallen comrade.

It is kind of interesting. Many years ago, I served in the U.S. Army. It is the same thing we said at that time. We have been living those words not just since the time I was in the Army but for 230 years. Both Senator AKAKA and I, the cochairmen of the Senate Army Caucus, were soldiers in the U.S. Army. The principles we learned then—the timeless principles of discipline, pride, integrity, honor, and sacrifice—have helped guide us throughout our lives. They still characterize the Army today.

So on behalf of Senator AKAKA and the rest of the Senate Army Caucus, I

wish the U.S. Army a happy 230th birthday.

I yield the floor.

Mr. AKAKA. Mr. President, I rise today to commemorate the birthday of the United States Army. The Army celebrates 230 years of service to our great Nation on June 14. On this momentous occasion, I ask that we all pause to pay tribute to the fine men and women of the Army who have served both around the world and at home during the U.S. Army's distinguished history. During the history of the U.S. Army, the battlefield location has changed and the warfighting technology has changed, but the spirit of the men and women of the U.S. Army has remained as consistent as the cause that they fight for—to protect, defend, and promote freedom at home and abroad. The selfless service given by each and every member of the U.S. Army is an inspiration to us all.

Mr. SESSIONS. Mr. President, 230 years ago on, June 14, 1775, our Founding Fathers formed the United States Army. The Continental Army emerged in the midst of a war for liberty and freedom.

Today, America's Army, serving worldwide in a global war on terror, is once again deeply engaged in fighting tyranny and ensuring the light of liberty shines around the world. It too is transforming just as it did in 1775.

The Nation stands united on the 230th birthday of the U.S. Army supporting our soldiers deployed around the globe. Each and every one a volunteer, who left behind the comforts of home to serve their fellow citizens and the Nation. Their courage, compassion, and selfless devotion to duty stand as clear examples to all of us and to nations the world over.

The American soldier has always been the centerpiece of the Nation's defense. Today, the focus remains as it always has: every soldier is a link to those past heroes. Moreover, our modern warfighters remain the preeminent land combat force in the world.

From Bunker Hill to New Orleans, from Gettysburg to the Marne, from North Africa and the beaches of Normandy to Inchon and the Ia Drang, from Desert Storm to Operations Enduring Freedom and Iraqi Freedom, the American soldier: brave, professional and determined has taken the field of battle in defense of those who hunger for freedom.

In light of the new threats of this century, the U.S. Army is transforming itself once again to remain on the leading edge of warfighting technology and combat skill. The change from musket to rifle, from horse to motorized vehicle, from aircraft to missiles has in the past 230 years demonstrated the resolve of our Army and its leaders to adapt in the face of change. New units of action, enhanced global mobility, infusion of precision weapons, and the responsiveness found in Army UAVs along with real-time sharing of intelligence and information are the hallmarks of the U.S. Army today. What will never change is the courage, determination, and professionalism of the ultimate weapon in the Nation's arsenal: the American soldier.

No tribute to our men and women in uniform, whether they are from Alabama or elsewhere, would be complete without mentioning their families. America salutes our military families and the silent burden they bear when their loved ones: husbands and wives, fathers and mothers or sons and daughters are called away to distant shores to defend this great Nation and our way of life. The love and support our soldier's families provide gives each soldier the comfort and respite from the danger and long hours spent away.

As Americans, completing life's daily tasks, we should be ever mindful that the peace and freedom we enjoy in this great Nation were secured time and time again by the valor of countless soldiers serving around the globe over the past 230 years.

From forward positions in Korea to the streets of Baghdad to the mountains of Afghanistan soldiers stand ready at their posts. They continue to guarantee the peace that has been handed down from generation to generation of Americans. We should be proud and humbled by the standards set and the sacrifices borne by these Americans.

Happy 230th Birthday United States Army. May your successes be many and your burdens light. General Patton once said, ''Wars may be fought with weapons, but they are won by men. It is the spirit of men who follow and of the man who leads that gains the victory.'' So it was in Patton's time, so it is today. Ours is the greatest Army ever fielded because of the men and women who wear its uniform make it so.

The PRESIDING OFFICER. The minority leader is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 6

Mr. REID. Mr. President, the ranking member is in the Finance Committee at a very important meeting dealing with CAFTA. He is going to return as soon as the distinguished chairman of the committee makes his opening statement. I ask unanimous consent that the first two amendments in order be the one I would define as the ethanol amendment—I do not know who is going to offer that. Who on your side will offer that, I ask Senator DOMENICI?

Mr. DOMENICI. We think it will be Senator INHOFE, but leave it up to the manager to decide.

Mr. REID. I ask that the next amendment in order be that of Senator CANTWELL of Washington.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. Reserving the right to object, respectfully, I would request of the Democratic leader, would there be an opportunity under his unanimous consent request that I be allowed to make an opening statement after the two managers of the bill have made their opening statements?

Mr. REID. Mr. President, I think that would be totally appropriate. I would ask—the amendments we are talking about would be first-degree amendments.

Mr. DOMENICI. Mr. President, I do not want the Senator to misunderstand, but I am going to object to the request, not because I do not want that to be the order. I would like very much to understand that is probably going to be the order, but I do not want to lock it in that way right now.

What we are going to do, if the distinguished minority leader agrees, is I will make an opening statement. If, in fact, Senator BINGAMAN is ready, somebody will get him here to make his, and then, if the Senator from Florida desires, we will let him proceed. Then we will work with you to get the other two amendments lined up.

The reason I say that, I say to the Senator, is there is going to be a long debate and many amendments with reference to ethanol, and I would like to get it out here and see how it is going. It will be ready pretty soon. Then you will be right after that in order, as we have been discussing. I hope that is satisfactory.

The PRESIDING OFFICER. Objection is heard.

The Democratic leader is recognized.

Mr. REID. Mr. President, has the bill been laid down yet?

The PRESIDING OFFICER. It has not.

ENERGY POLICY ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will proceed to the consideration of H.R. 6, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy.

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, so the Senate will have an idea what we are trying to do, the first amendment we are trying to offer up is in the process of being completed in a bipartisan manner, the ethanol amendment. We don't know exactly when that will be ready. It looks as though they are working on the last clearances or clarification of words. I was told a while

ago it may be an hour, it may be less. That will give us a chance to speak. In Senator BINGAMAN's absence, we agreed that after our statements, Senator NELSON will speak.

Mr. President, I think the most important thing to start with here is that this bill before us cleared the Energy and Natural Resources Committee, after years of stalemate, by a rather incredible vote of 21 to 1. Some would think perhaps that doesn't mean a great deal. But to the Senator from New Mexico, as chairman of this committee, I think it is very important. I think it means that, for once, Republicans and Democrats have seen an American problem of real significance and have tried very, very hard to see if they could cooperate at every level, with every amendment, and give everybody a chance to argue, present, win, lose, and produce a bill.

I will start by saying that is one of the big differences between why we are here today and what we are here about. I think it means that eventually the American people and their great concern finally bubbles up, and I hope partisanship disappears and we try to get a bill. Partisanship might not be over because when you get to the floor, there is still a chance to be partisan, and that is all right. The thing is, we want very much—and I use ''we'' because I speak for my friend, Senator BINGAMAN—to get a bill. That means the Senate is going to have a lot of time but perhaps not as much as last time or the time before, when we had literally hundreds of amendments left when we finished debate. And only through good fortune were we able to go to conference, in a very unordinary way, and we lost on the floor for reasons that the Chair and others understand.

Having said that, let me say there is no question that this great country, with this rather fantastic economy, with its leadership role in terms of security, is in a position where we need a bill that enhances America's energy supply, maximizes conservation, and that produces clean energy. So what we are talking about is an American Clean Energy Act that will produce security of supply, affordability and, ultimately, national security and prosperity.

It sounds as though that is a rather auspicious hope for a bill, and I am not here saying everything about it is perfect, nor am I saying some could not find ways to criticize it and say that perhaps it could be done a better way. But remember, we are in the Senate, where Senators have to get a chance to work their will, where there is a myriad of ideas about how America should move through this very, very difficult time.

I want to say right up front that I wish we were here saying we could go back 25 years and make some big changes so we were not having such a serious problem with reference to crude oil and the requirement that we import so much. Of that importation, a huge amount, 75 percent, goes to transportation. Americans should know that means automobiles, that means SUVs, trucks, and everything that has to do with moving us around. We decided years ago that cheap oil, even if it came from overseas, should come to America and feed this desire for prosperity and mobility and transportation, which was one of our ways of providing our freedom. Now, 25 to 30 years later, we are in one gigantic bind, in that we cannot produce enough oil to meet this need.

As a matter of fact, today, as we stand here, the United States has diminished regularly its ability to produce the quantity of oil that it produces so that in the world we are no longer a major producer; we are No. 6. If you look out in the world, we are the sixth largest producer—and fading. There is nothing we can do about it, in terms of gigantic steps forward. We can, and this bill attempts to, enhance our ability to produce oil on American soil, where oil exists. We attempt to create a better format for permitting and drilling and acquiring American oil, and then, as an aside, there will be a major debate later—not on this bill—as to what we do, if anything, with the oil of America that is in Alaska, which we frequently call and discuss as ''ANWR''.

Nonetheless, in this bill, we have tried, with a degree of reasonableness, to say we are going to insist that we save 1 million barrels of oil a year, as far as what we use, by saying to the President: You use whatever means at your disposal to save a million barrels. And we give him that authority. Anybody who thinks we can do way more than that—I hope everybody understands that that is a discussion that doesn't have a great deal of merit, and it is beyond the realm of the responsible and reality.

Having said that, in addition to that 1 million barrels, this bill is laden with opportunities for additional savings because we are promoting hybrid cars, and I am sure the tax bill, which would be attached to this, will further enhance the use of hybrid cars, which is a great energy saver.

In addition, while some are critical, we will produce a very major ethanol bill before we are finished. The finishing touches are being put on it now. That particular bill will say to America, produce the maximum amount of ethanol, and ethanol will be used to mix with derivatives of crude oil and, yes, indeed, that will have a tremendous impact on how much oil we have to import from overseas from foreign countries. I will get to the specifics on that shortly.

At the same time, that particular aspect of the bill produces a lot of jobs. As a matter of fact, as I spoke of this bill at the inception and I spoke about prosperity, I spoke about security, I should have said to Americans it also will produce jobs because, with an abundance of energy, we are more competitive; with an abundance of alternative sources of energy, we get stronger in terms of our ability to compete, which means this is a jobs bill.

So it is a jobs bill, a security bill, a clean air bill, and a clean energy bill. Add all of that up, it is a tremendous step forward for the United States.

I will speak for a minute about one of the most important commodities that we use in the United States: it is that marvelous product called natural gas. We are very grateful and fortunate in America that we do produce a lot of our own natural gas, but I regret to say that we have begun to use it in such abundance because we started about 8, 9, or 10 years ago putting natural gas in all of our new electric powerplants.

Understand that powerplants in America and in the world produce electricity that goes into a grid that is distributed out. If anyone is wondering how important it is, turn on the lights, and that is electricity that came from some far away power company. In the United States, powerplants receive their basic energizing from a number of sources. Currently, 20.5 percent of America's energy comes from nuclear power. We have not built a new nuclear power plant in almost two decades. Energy from nuclear power is undergoing a renaissance. It is beginning to percolate up as something that many more people think is a real, bona fide source of electricity and energy for the future.

I am well aware that the occupant of the chair, the distinguished junior Senator from New Hampshire, is a staunch proponent of nuclear power. I recall vividly his father, who had been Governor of the granite State many years ago, discussing with this Senator way before people were talking about it that we ought to move ahead with nuclear power. That is one source.

This bill, in a number of ways—and when the tax bill is finished and gets before us, that will finish the requirements—will push us in the direction of saying let us move ahead with nuclear power, provided we follow all of the rules, regulations, and laws because we have concluded that it is as safe, if not safer, than any other source of energy.

In addition, this bill would be a producer of clean energy. Nuclear is one of them. Secondly, we are a country while on the one hand not so blessed because we use so much crude oil and do not have enough, we are a country that is laden with coal. Right now the largest source of electricity produced in America comes from coal.

In numerous ways, this bill is a boost and sends a real powerful signal that we want to invest in new technology to produce clean coal for clean powerplants. We even provide incentives for the production of new coal transformation plants where we will begin to produce clean energy and capture the carbon that is one of the negative aspects of burning coal today.

Harkening back to natural gas, this bill does another very important thing.

We must bring down over time, if we can, the price of natural gas. People wonder what we can do in other areas, but natural gas is a feedstock in America. It is fertilizer, it is jobs, it is agriculture, it is the feedstock for many other products in our country. I believe we are paying the highest price in the world today for natural gas.

In this bill, we provide for a better way to site and locate liquefied natural gas—commonly called LNG—ports in the United States. We say they cannot be delayed indefinitely. If they are safe, then the Federal Government ultimately can get involved and see that we do them. It is important that we do that.

I did not mention everything. There are so many other aspects of this bill, but I want to talk about conservation because there are some who do not think conservation is the kind of thing that is important in an energy bill. It is vitally important, and I compliment those who have pursued it with vigor, led by my good friend, Senator BINGAMAN, who has pursued conservation for a long time.

This bill has very major conservation aspects. The amount of conservation that will be forthcoming in this bill is astounding. From what we understand, this bill will give us an opportunity, with reference to the use of energy from powerplants, to have the equivalent, if I am correct, of 50 powerplants of 1,000 megawatts over time. Just think of that. That is rather major. We could go on and talk about many other aspects, but Senator BINGAMAN will talk about the bill from his vantage point.

I close by saying that renewables are important. This bill recognizes renewables in many aspects and ways. Clearly, we promote fuel cells. We fund it. We encourage its research. Clearly, it is an energy source of the future. It will be part of making us more independent and clearly help us even in our transportation problems with reference to fuel.

Likewise, there is a section of this bill that I believe is about as innovative as anything we have done, and it has to do with incentives for building new and innovative sources of energy. In this bill, we call that title incentives. What we have done in the bill is provided for a new way for the United States, through the Secretary of Energy, to make decisions about new technology applied to pilot projects that might be built in various kinds of new technological breakthrough activities. It will be a provision that will be known as the loan guarantee provision, but it is different in that whoever applies will pay the risk insurance costs, and then they will borrow on an 80/20 basis. That means the U.S. Treasury should come through this with no actual cost to the Government.

According to our budget provisions and the law that provides for loan guarantees, it will not cost the Treasury and will be a very big source of new and exciting applications for the United States of new innovation, which among all the things we have mentioned—the breakthroughs in coal gasification, the breakthroughs in many other areas of technology—are really going to be important in making America more secure, producing more jobs, producing a society that indeed continues to be prosperous. So this is a bill that has great efficiency and conservation built in.

On the electric front, I mentioned production of electricity, but I also want to remind everybody this bill also should provide for a framework where we will not have blackouts in the future. That is an easy one to remember. Even the young people here remember blackouts because they just occurred a while ago.

We have a reliability section which everybody in the business says is high time we have because everyone will have the same reliability standards, and we hope blackouts will become a thing of the past.

I mentioned ethanol. I note there is one of the strongest proponents of ethanol on the floor, and I say to the distinguished Senator, I hope we get a good ethanol bill. Thanks to his efforts and many others, we should get one that produces literally thousands of jobs, billions of gallons of gasoline, and millions of barrels of oil saved from overseas.

When we add that all together, the hybrid cars that will be produced—and I just heard the other day that if we continue to stimulate the purchase of hybrids, and if indeed they are produced as they have been, and if American manufacturers will get to where they are producing them so that it is not just Japanese hybrids, we should have in the not too distant future the equivalent of a million cars a year that would be hybrids. That will be a huge saver along with the other things that we are doing.

I want to add two things that are not in this bill that are very important to our future. Separate and apart, as everybody remembers, we produced a proposal that should bring natural gas down from Alaska into Chicago, a huge pipeline, one of America's major construction projects. I do not want to overstate the case because it is not in this bill, but what we are trying to say is everything put together, this is where we are going. When that is completed, there will be a huge new supply of natural gas coming into our country, along with what we are discussing in this bill regarding other fronts. I will not give the details of what the ethanol provisions will do for our country, but it is obvious that will be discussed many times over.

I can get it now. It will reduce crude oil imports by 2 billion barrels and reduce the outflow of dollars to foreign oil producers by $64 billion. It will create 234,000 new jobs. It will add $200 billion to the GDP between 2005 and 2012, and it will create $6 billion in new investment, much to go to States that are currently called rural States that truly need the economic development that will come with it.

Actually, because it is agricultural products and because of the add-on that will occur in the development of ethanol, U.S. household incomes could, indeed, go up substantially overall, as much as $43 billion.

This bill has provisions and ideas that came from every Senator. Senator BINGAMAN remembers on his side of the aisle four or five Senators have major provisions they got in this bill. Senator BINGAMAN and I negotiated out a number that were his ideas. I worked hard on the nuclear section. As I said, I think this bill, with the tax provisions, is going to cause a renaissance in nuclear power. In fact, I believe it is fair to say we will have a nuclear powerplant started in this country, ground turned, within 5 years—and I think that is the outside.

Three consortia applied for pre-permitting under our rather new law for the expeditious handling of nuclear power permits. I mean expeditious only in that they will not have to stop over so many times. It will be clearly reviewed and have to meet standards, but they will not stop six or eight times from the construction until the end.

And we do provide some assurance to those who will fund those powerplants that they will not get stuck midway through construction; that they will be able to complete the powerplants.

I hope I have not neglected important issues, but the most important is we have done our very best to get a bipartisan bill. We have done our very best to send the right kind of messages to the world that, if we get this, America is alive in terms of our energy security, our jobs for the future, our competitiveness and reduction in the costs of some of the major basic energy sources, and, yes, cleaner air, cleaner coal—cleaner electricity production. If you add it up, it is truly an American Clean Energy Act.

With that, I understand my fellow colleague from New Mexico would like to give his statement on the bill and I yield at this time.

Mr. NELSON of Florida. Will the Senator yield for a question?

Mr. DOMENICI. Please.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Could the distinguished chairman or ranking member of the committee inform the Senator from Florida at what point—maybe after the caucus lunch—we will be able to huddle up to finalize the suggested colloquy that we have been discussing?

Mr. DOMENICI. The time got away. It is almost 12.

How long will my colleague take?

Mr. BINGAMAN. Mr. President, I should not take more than 15 minutes.

Mr. DOMENICI. Unless there is something intervening, the Senator can speak right after that.

Mr. NELSON of Florida. I thank the Chairman, but I was asking a different question. I was wondering when we would be able to have some substantive discussion on a future colloquy that we would have on the floor.

Mr. DOMENICI. We all agreed that the next issue, the next item is going to be an amendment on ethanol. It is being gotten ready. We would take it up, but you understand when you do ethanol it is not one person, it is both sides of the aisle and 10 or 15 Senators. They are almost finished. That will be the next item.

If you are referring to a colloquy with respect to coastal offshore drilling, we are working on something with you and Senator MARTINEZ, both sides, and I don't know when we will have that ready. It is being worked on right now. But this side does not have any desire to delay that. We have to bring Senator LANDRIEU and other Senators in on that—Senator VITTER—and we will do that as soon as we can, I assure you.

The PRESIDING OFFICER. The junior Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me first congratulate our chairman, Senator DOMENICI, on successfully bringing this bill through the Committee on Energy and Natural Resources, and to the Senate floor. As he indicated, the vote to report the bill from committee was 21 to 1—nearly unanimous. That vote is a testament, not only to what is contained in the bill but also to the process he followed when moving the bill to the Senate floor.

It has been over 4 years since President Bush released his energy policy plan. I believe President Bush was right to want to fashion a comprehensive energy policy for the Nation. President Clinton had such a policy document put together by a task force under Secretary of Energy Federico Pena. The first President Bush also had a national energy strategy document that was put together by then-Secretary of Energy James Watkins, after numerous public hearings around the country.

The fact that three successive Presidents have seen the need for comprehensive energy policy illustrates an important fact; that is, a good energy policy does not happen automatically. Energy markets are not inherently free markets and the short-term thinking that drives much corporate behavior in America is often mismatched to the long-term energy needs of the country.

As one example, if you look at the utility sector, you can see that our generation mix in recent years has strongly skewed toward new plants based on natural gas. But we now find that our long-term supply picture for natural gas cannot accommodate this additional demand without significant increases in price for all gas consumers.

Energy policy is something that requires intentional forethought and planning. I remember former Chairman Bob Galvin of Motorola saying at one point that there are certain things a country needs to set out to do on purpose. I believe, along with my colleagues on the Democratic side, a good, comprehensive energy policy is one of those things. I believe what we should try to do on purpose can be summarized under four basic principles.

The first principle is that we need to increase our supplies of energy from all available sources. Every potential source of energy will be required in order to meet our energy needs in the future. We need to make sure that resources that have not yet been as extensively developed as they might otherwise be, such as renewable energy, get the policy assist they need to make their maximum contribution.

The second principle is we need to ensure that the energy we do produce is transported as effectively as possible and is consumed as efficiently as possible. Our national energy system depends on a critical infrastructure of ports and pipelines and transmission wires and other modes of moving energy from one place to another. Building and maintaining that infrastructure is difficult and it is expensive. We need to make sure we have policies so consumers are not hurt by price spikes and other problems caused by bottlenecks in the energy system.

Once energy reaches its point of end use, it is important that it not be wasted. Improving the efficiency of energy use in appliances, in commercial equipment, in industrial processes, and in transportation will lead to two important goals: lowering the price for all energy users and less strain on our energy infrastructure.

The third principle of a good, comprehensive energy policy is that we need to make sure it meshes well with other important national policies. It is especially important the energy policy have good synergy with environmental policy. Nowhere is this more clear, in my view, than in the case of global warming. Mr. President, 98 percent of the carbon dioxide produced in the United States is associated somehow with energy production and use. We cannot afford an energy policy that does not take into account environmental and climate impact, just as we cannot afford to have a climate policy that ignores energy impacts.

Finally, because we rely heavily on market forces and signals to shape our energy choices, we need to be sure that we have energy markets that are transparent and that are fair to consumers. I believe when we have competitive energy markets that work fairly, everyone in the energy chain, from the producer to the consumer, benefits.

As the California electricity crisis a few years ago showed—and not just the California crisis but the crisis that afflicted most of the west coast—when energy markets are not structured properly, when those markets allow for hidden and manipulative practices, great economic damage can be done.

These four principles are the foundation I hope we have before us in this energy bill that is coming to the Senate for consideration. I believe the Senate will ultimately be judged in the area of energy policy, first by whether our bill makes a concrete difference in bringing new energy resources and technologies into the mix; second, by whether we make sure that we use advanced technology to save as much energy as possible; third, by our ability to protect the environment and respond to challenges such as global warming; and, finally, by our ability to shape energy markets for the future that protect and empower consumers.

At the beginning of the markup of the bill in the Energy Committee, I expressed my appreciation to my colleague, Senator DOMENICI, for the way he and his staff had worked with Democratic Members and staff in preparing for the markup. I told him that he deserved great credit for a good start, and I looked forward to working with him to see if we could have a similarly good finish in the committee.

We had a very good finish in the committee. We are now having a good start on the Senate floor. This bill is a good starting point, but there are several important issues with which we need to deal in the full Senate that we were not able to address in committee. Three of these issues deal with providing more certainty to all those associated with our energy system so that they can make rational investments in the energy technologies of the future.

First, we need to provide renewable energy with a more certain place in our future. Renewable energy provides nowhere near the contribution to our energy mix today that it could or that it should. In the last Congress, we expanded the scope of production tax credits for renewable energy, but these tax credits expire after only a very short time. Thus, they do not provide the needed long-term market signals. I believe we need to supplement these tax credits with a long-term national renewable electricity standard. By having a clear, certain requirement that 10 percent of all electricity generation comes from renewables in the year 2020, we would give industry the certainty it needs to successfully undertake new projects to improve the diversity of our electricity generation mix and to relieve some of the pressure that is leading to high natural gas prices.

Second, we need to deal responsibly with global warming. The electric industry and many other sectors of our economy are gripped with uncertainty about the future of carbon-based energy and products in a world that is increasingly concerned about global warming. There is a need for certainty about the regulatory framework that would be in effect regarding future investments to ameliorate the threat of global warming. Under our current voluntary approach to the problem we will likely never see these new investments,

not because they are not needed but because the economic picture is so clouded.

Third, we need more clarity on how we plan to deal with our dependence on foreign oil. We need to see if we can spur additional petroleum production in a way that is environmentally responsible, and we need to see if we can find ways to use less oil in the American economy. If we can trim the growth in our national demand for oil, we will relieve both our dependence on imports and the pressure on our national infrastructure of oil terminals and pipelines and refineries, all of which are operating near their capacity today.

An energy bill is a place for clear purposes. I hope that when the full Senate has completed its consideration of this measure, it will have expressed a willingness to take clear and forceful new action to ensure that our energy future is clean and abundant and affordable.

I yield the floor.

The PRESIDING OFFICER (Mr. BURR). The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I will address some initial comments to both the chairman and the ranking member of the committee. Senator BINGAMAN and the chairman of the committee, Senator DOMENICI, have been very kind as we have discussed what is in the interests of my State and other coastal States. I will lay out my case. I want everyone to understand this is the initial laying out of the case. I hope the version I will give, over the next 15 or 20 minutes, will be the only speech I have to give on the subject of oil drilling off the coast of Florida. I hope we are not going to have to address this issue. I hope I will not have to address this because somebody—a Member of this Senate—will not be coming forth with an amendment to change the existing moratorium on oil drilling off the Outer Continental Shelf.

The United States is depicted on this map in green; the Outer Continental Shelf area subject to the moratorium is off the Pacific coast from Washington in the North down to the southern end of California; on the Atlantic coast, off the tip of Maine all the way down to Florida; and the Outer Continental Shelf off of the gulf coast of Florida. This area depicted in blue is where there are existing, active leases for oil and gas drilling off of the coast of Alabama, Mississippi, Louisiana, and Texas.

A better description of this is depicted in this map. Before I get to the details, I hope this Senator from Florida and this Senator's colleague from Florida, Senator MARTINEZ, do not have to give lengthy speeches. We are prepared to utilize the rules of the Senate in order to keep this moratorium in place. It is not only the Senators from Florida who are interested in this, but the Senators from Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, and all the way up into New England, as well as the Senators from California, Oregon, and Washington State.

There are a lot of Senators who, particularly when the geology shows there is not much oil and gas, have other interests we have to face in a tradeoff. What are those? In Florida, obviously, it is the extraordinary $50-billion-a-year tourism industry, as evidenced by some of the most pristine beaches in the world which spawn a major part of the attraction to our guests that come to Florida to enjoy this kind of environment. Or this kind of environment: An extraordinary place of clear water, of beautiful beach sand—places that people love to come to for vacation and to enjoy the bounty of our extraordinary nature in our State.

That, of course, is one reason we do not want oil rigs out there. We do not want oil rigs because of the chance of despoiling that environment. Think of the Senators from Georgia. They have a place called Sea Island. They have a place called Jekyll Island. They have a National Park in a place called Cumberland Island. Beautiful beaches.

Imagine the Senators from South Carolina looking at the extraordinary part of the economy of their State that comes in from those beautiful beaches they have. Myrtle Beach is an example.

Or look at the Senators from North Carolina, the extraordinary beauty they have. Guests to their State, including their own citizens, want to go to beaches like that.

Oil rigs off the beaches are not compatible with keeping a site like that or like that. But there are many more reasons I will get into. I hope this is the only speech I will have to make. I take the chairman and the ranking member at their word, that they have, in fact, been dealing with me in good faith. We are trying to work out the language of a colloquy that assures the Senators from these coastal States that the leadership of the committee handling the bill before the Senate would not support a lifting of the moratorium that allows the drilling.

However, it is particularly important to me and to Senator MARTINEZ from the State of Florida because the place the administration wants to drill is a place called Lease Sale 181, a place drawn back years ago, including about 6 million acres. In 2001, along with then-Senator GRAHAM, this Senator from Florida, the Governor of Florida, the Governor negotiated a line that is the Alabama-Florida line, an imaginary line due south from the border of Alabama and Florida, near Perdido Key, and that there would not be any part of that lease sale that would be agreed to.

Thus, as to that 6 million acres in Lease Sale 181, 4 years ago in 2001, what was agreed was there would be approximately 1.5 million acres offered for lease but this would be off the coast of Alabama, not off the coast of Florida. Since then, that 1.5 million acres has been offered for lease and that is proceeding through exploratory wells. However, it is not off of Florida.

Why are these coastal Senators so exercised, especially the two Senators from Florida? Because the administration wants to expand now into the rest of that 4.5 million acres that begins what we see as an inevitable march toward the coast of Florida. That was not the agreement in 2001. But the administration is now trying to change that agreement.

That is where we are prepared, as the Senators from Florida, to take our stand and not allow additional drilling.

I return to where I started. I hope this is the only major speech I have to make in the Senate on the discussion of the Energy bill, other than other amendments I am involved in. This Senator and his colleague, Senator MARTINEZ, are prepared to use the rules of the Senate—including extended debate, if necessary—in order to prevent drilling off the coast of Florida.

It is instructive to look at the entire Gulf of Mexico on this map generated by the Minerals Management Service, MMS, that shows in green the active oil and gas leases. As this shows, clearly, they are west of the State of Florida. There is a reason for that. The reason, primarily, is that the geology shows this is where the oil and gas is located. We can see by the darkness of the green that a lot of that is right off the coast of the State of Louisiana.

There is also a reason we do not see this area with active leasing off the coast of Florida. Because where there were leases, they have been bought back, either under agreements with the administration and the Governor of Florida, as in the case of the Destin Dome, which is right here off Pensacola and Fort Walton—although there are two tracks or blocks there that are still available for lease after the year 2012.

There is a reason why we do not see any here. All of those leases off the southwest coast of Florida have been bought back under the administration of the previous President Bush.

There is another reason we do not see any, and that is because of the geology. They have done a bunch of test wells in the eastern gulf and they have come up dry.

And there are more reasons. In the course of my explaining all of these reasons, let me say this is not the first time this Senator has been involved in trying to keep drilling off the coast of Florida. When this Senator was a Member of the House of Representatives, in the middle 1980s, representing a district that included east central Florida—Orlando, Cape Canaveral, my hometown of Melbourne, this general area of the east coast of Florida—there was a Secretary of the Interior named James Watt, under President Reagan, who was bound and determined he was going to offer for sale leases for oil and gas drilling from Cape Hatteras, NC, all the way south to Fort Pierce, FL. This

Senator, then a member of the House of Representatives, went to work to defeat it, and defeated it in the Appropriations Committee of the House.

But 2 years later, under the next Secretary of the Interior named Don Hodell, they came back with the same plan in the mid-1980s. At that point, they were bound and determined they were going to start drilling. They were going to start drilling off the coast of the State of the Presiding Officer sitting in the chair of the President of the Senate right now. They were going to drill all the way down to Fort Pierce. We finally beat it but it was a tough fight.

But the way we did it was we explained that you simply cannot have oil and gas rigs out in the Atlantic where you are dropping the solid rocket boosters from the space shuttle and where you are dropping the first stages of the expendable booster rockets coming out of the Cape Canaveral Air Force Station.

A major national asset: our Eastern Test Range, where we fire our rockets into equatorial orbit and where, in our manned space program, likewise, we are launching the space shuttle into equatorial orbit.

Well, we have a similar reason now of why we want to keep oil and gas rigs on the surface of the Gulf of Mexico because one of the major national assets of the United States is called restricted airspace. It is where we train our military pilots. We have—this area here is just the State of Florida, but the State of Florida is so key, off of the northeast coast of Florida and off of the State of Georgia—restricted airspace, but particularly here in the Eglin Gulf Test and Training Range, which you can see, as depicted by the white on the map, is almost the entire eastern section of the Gulf of Mexico.

Why is this a major national asset? Because it is hard to create restricted airspace in order to train our military pilots. When Vieques closed down—that was the little island off of the eastern end of Puerto Rico where the Navy trained its pilots, all for the Atlantic region—when that was shut down because of the government and the people of Puerto Rico wanting it shut down, where do you think most of that training had to come? It had to come right here, and it is operating out of these military facilities all along the panhandle.

It includes ranges actually in the State of Florida. But with the advance of technology, computers can now create virtual battlefields on the surface of the ocean—in this case, the surface of the Gulf of Mexico—in which these pilots can then train for their missions.

Ladies and gentlemen, you cannot be training by dropping your ordnance in an area of the Gulf of Mexico where there are oil and gas rigs. You cannot have coordinated training exercises with the Navy on the ocean surface, the Navy underwater, and the Navy in the air, if you are having to deal with oil rigs. So it is another reason we simply have to have other considerations when the administration says they want to come in with lease sale 181, which is a place, almost in the middle of this Eglin Gulf Test and Training Range.

By the way, why is it that most of the Navy concentrated student pilot training is now at Pensacola Naval Air Station and Whiting Field? Why is it that the joint service fighter, the F–35, training for all branches of the service is being done at Eglin? And why is the training for the new stealth fighter, the F–22, being done at Tyndall Air Force Base? Why? Because they have plenty of restricted airspace in which to train. So that is another reason we do not want to have oil rigs off the coast of Florida.

In the lengthier version of my remarks, which I hope I do not have to give, I can give you additional reasons why we do not want it. I can show you all kinds of pictures that are imprinted in our memories of what oil does to a beach, of what oil does to sea life and waterfowl, and of what oil does in spills that are trying to be contained and yet going out of control.

In the lengthier version of these remarks that I hope I do not have to give, I can show you plenty of pictures that are not the kind of pictures that any one of us coastal State Senators who now have a moratorium on oil and gas production want to have—none of us. Yet it is real. The possibility is there.

So what we are facing is a situation that if we cannot get agreement from the chairman and the ranking member that they will oppose a change in the moratorium on this oil and gas drilling off the coast of and on the Outer Continental Shelf, we have no choice but to use the tools available to us in the Senate rules to prolong debate and to utilize various parliamentary procedures in which to get our point across.

I do not think that is going to be necessary because of the good will of the chairman and the ranking member. As I speak, there are negotiations going on with our staffs in order to come to an agreement on colloquy language between Senator MARTINEZ and me and the chairman and the ranking member stating that they would oppose any of these amendments that would allow this expansion of drilling in the Outer Continental Shelf and lease sale 181, which is off the coast of Florida.

Mr. President, there is another reason; that is, Florida is this unique environment where all the forces of nature come together along our coast. If it is not the barrier islands that have the beautiful, pristine beaches that you have seen in these pictures, it is the parts of Florida that are the critically delicate estuaries and mangroves such as in the Big Bend of Florida and down south of Marco Island in this incredible area of mangroves called the 10,000 Islands that is so absolutely necessary as a part of the ending of the sheet flow of water that is called the River of Grass, known as the Everglades of Florida—a unique environmental feature in the world itself.

Mr. DOMENICI. Mr. President, will the Senator yield without losing his right to the floor?

Mr. NELSON of Florida. I will yield to the chairman. You caught me in midsentence. I was about to talk about the fragility of the Keys of Florida, but I want to yield to my chairman because he is such a great chairman and he is such a good friend.

Mr. DOMENICI. Go ahead, Senator.

Mr. NELSON of Florida. No, I want to yield.

Mr. DOMENICI. I thank the Senator. I was just wondering, we understand your genuine concern. You are going to have plenty of opportunity as this bill moves along to make sure that your State is protected. What I would like to do, since we are going to have to go out because of your caucus—we do not have ours today—I wonder if you might consider making this first statement of yours kind of abbreviated so Senator DORGAN could have a little opportunity before we break. Then we would take our break, and, hopefully, we would have ethanol ready. You would not lose anything, obviously. The floor is going to be open to you, and you can state what you wish to state beyond what you have spoken here today.

Mr. NELSON of Florida. Well, of course I want to work with the chairman. Over the weekend, this Senator sprained a muscle in his right leg, and the last thing he wants to do is have to stand on his feet with this injured leg for hours and hours. So I want to work in good faith with the Senator from New Mexico in working out the colloquy. This Senator would clearly want that colloquy to come sooner rather than later, as soon as our staffs finish it.

I, of course, will yield for Senator DORGAN to make his statement, since we are going out in just a few minutes.

I will just conclude by saying, I don't think there are many Americans who do not know the beauty and the fragility of the Florida Keys and the coral reefs there. That is another one of the reasons we have to be so sensitive about drilling off the coast of Florida.

So at the chairman's request, I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I wish to say to the Senate, the distinguished junior Senator from Florida, Mr. MARTINEZ, has spoken with this chairman on numerous occasions about this issue. He continues to be as concerned as Senator NELSON about this issue. We are working with him—I am not sure how it is all going to turn out in terms of a colloquy, but we do not intend to do anything to harm Florida. We have already told everybody that. It is very hard to make broad-based commitments in advance, and it is not just up to me. There are other Senators, including Senator BINGAMAN. But we are doing our best.

I want everybody to understand that both Senators are working very hard at this.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that privileges of the floor be granted to members of staff who will be listed hereinafter. They are members of the committee who will have to spend time, from time to time, on the floor. And I ask unanimous consent that their names be printed in the RECORD.

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

The list of names is as follows:

Karen Billups, Colin Hayes, Lisa Epifani, Kelly Donnelly, John Peschke, Frank Macchiarola, Frank Gladics, Dick Bouts, Carole McGuire, Marnie Funk, Kathryn Clay, Josh Johnson, Clint Williamson, and Amy Millet.

Mr. REID. Mr. President, I ask unanimous consent that a list of fellows and interns of the Democratic staff of the Finance Committee be allowed on the Senate floor for the duration of the debate on the Energy Bill.

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

The list is as follows:

Brian Townsend, Cuong Huynh, Richard Litsey, Jorlie Cruz, Mary Baker, Stuart Sirkin, Andrea Porter, Ashley Sparano, Drew Blewett, Jake Kuipers, Rob Grayson, Katherine Bitz, Danny Shervin, Paul Turner, Heather O'Loughlin, Julie Golden, Julie Straus, and Adam Elkington.

Mr. DOMENICI. Mr. President, I yield to the distinguished Senator, Mr. DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is the Senate is about to go out for the caucus on our side. It is customarily held on Tuesdays. My thought is, perhaps when we come back—I believe at 2:15, by previous consent; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. I am wondering if it might be appropriate for me to be recognized at 2:15 for 15 minutes. Then, at that point, Senator DOMENICI and Senator BINGAMAN will proceed with whatever agreement they are going to have.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. There is no objection, as long as it is understood I have the floor when we return.

The PRESIDING OFFICER. The unanimous consent request would be that Senator DORGAN—

Mr. DOMENICI. The Senator from New Mexico would have the floor.

Mr. DORGAN. At 2:30.

Mr. DOMENICI. Yes.

Mr. DORGAN. I would start at 2:15. That is my request.

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

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I heard the statement by my colleague from Florida. He is aggressive and persuasive. I must say, in the committee we have already had some of these discussions by some who would want to open the Outer Continental Shelf and have more drilling and have a State election and so on. We already had some of that discussion, and I do not know whether anybody can agree in advance to prohibit amendments. You cannot agree to that, certainly, or agree to oppose amendments you do not know exist.

But I would say to the Senator from Florida, I do not think there is a ghost of a chance of us finishing this energy bill and having it carry some new mandate for Outer Continental Shelf production. That is just not going to happen, in my judgment. I think the reason it is not going to happen, at least in part, is for the reasons my colleague from Florida has described with his charts of what it would do to Florida. And it also relates to some concerns in other areas as well dealing with the Outer Continental Shelf and areas that have been set aside.

I just want to say, I understand the presentation. I did not mean to be here to interrupt it. I would like to make a general statement at 2:15 about the bill which, incidentally, I think is an excellent bill. It is the best energy bill we have brought to the Senate for several decades, in my judgment. I am going to support a couple of additions to it here and there. We have not done the energy independence approach, what is called the renewable portfolio standard. We will do that and some other things.

I am proud of this bill. This is a bipartisan effort, which is unusual in the Senate. I hope this starts a new habit. This legislation moves this country in the right direction in a significant way. Acknowledging the concern of my colleague from Florida, when the dust settles, I think he will understand that the battle he wages is one he will win because I don't believe the Senate is going to add the concerns he expresses about Outer Continental Shelf production.

I am pleased to come back at 2:15 and make a more general statement. I thank my colleagues from Florida and New Mexico.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will stand in recess until 2:15. p.m.

Thereupon, at 12:30 p.m., the Senate recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

ENERGY POLICY ACT OF 2005—Continued

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, it is my understanding that I will be recognized for the first 15 minutes and at 2:30, I believe, Senator DOMENICI will be recognized; is that correct?

The PRESIDING OFFICER. That is correct, yes.

Mr. DORGAN. Mr. President, I want to make a brief opening comment about the Energy bill on the floor of the Senate.

First, I think the product of the Energy Committee is a bill that advances this country's interests. I think the work done by Senator DOMENICI and Senator BINGAMAN is quite extraordinary. At a time when there is so much partisanship and division and so much difficulty in getting together, this bill was the product of two Senators—coincidentally, from the same State—who decided to write a bipartisan bill. So the result was a vote in the committee of 21 to 1 for this Energy bill.

I think the bill is progressive and strong and advances our country's interests. First, I wanted to say thanks to both of them. I think what we have is a good bill. I am going to vote for some amendments that I think will strengthen it. Such as one we did not include in committee that would move us toward energy independence by requiring 10 percent of the electricity to be produced from renewable sources of energy. We call that a renewable portfolio standard. That needs to be in the bill. I will vote for an amendment to deal with that. There are other issues as well that would advance us toward greater energy independence that I will support.

The question for us is how do we remove for America the addiction to foreign sources of oil? If I were to have a barrel of oil on the floor of the Senate—and we use over 20 million of them every single day—and that barrel of oil were transparent, you would find out the first 40 percent of that barrel was oil we produced in this country, and the next 60 percent is oil we get elsewhere. From where does it come? It comes from Saudi Arabia, Kuwait, Iraq, Venezuela—very troubled parts of the world. We are hopelessly and dangerously addicted to oil from troubled parts of the world. God forbid, tomorrow morning a terrorist would interrupt the supply of oil coming into this country. Our economy—the American economy—would be in deep trouble.

I remember listening and watching the Indianapolis 500 this year, as I have done ever since I was a young boy. This year was different because a woman was a race car driver, Danica Patrick, who drove her race car 220 miles an hour. I believe it was seven or eight or nine laps from the end of the race, and guess who was winning. The only woman who was racing in the Indianapolis 500; this young 23-year-old woman was leading the race. But they worried she was going to run out of fuel because she had not had a pit stop, and they worried she would not make it to the end. So she had to back off a little, worried about running out of gas. I think she took fourth place in the Indianapolis 500, and she captured the hearts of the country. We are going to hear a lot about her.

But her future in the Indianapolis 500 in the final laps had to do with whether she had enough gas to finish the race? It is an appropriate question for the country. Will we run out of gas? It is dangerous for our country to be this addicted to oil from off our shores. So we need now to find a way to change that. Every moment, from the time we wake up in the morning until we go to bed at night, we take energy for granted. Energy comes in the form of a light switch. It comes in the form of pressing on the accelerator of your car. It is the gas pump, the air conditioner, the furnace, the refrigerator. Energy is all around us, and we take it for granted. We use it every day, and we don't think about it.

But wonder for a moment what would happen if that energy were not available. We use a prodigious amount of energy. We live on Earth and we circle the Sun and there are 6 billion of us living on this planet—6 billion. And every single month, we add to this planet the equivalent of the population of a New York City. There is only one place on the planet that resembles the United States of America, and we are lucky to be living here and living now. But, we use an enormous amount of energy. We use a great deal of energy—more per capita, by far, than any other country on Earth.

Meanwhile the Chinese have 1.4 billion people. They now have 20 million cars and they are going to have 120 million cars by 2020, they say. They want more energy and will need more.

So the question for this country is: Can we, and will we, maintain the standard of living, maintain the kind of country we want to be, and produce the opportunity we want for our children, being as dependent as we are upon oil from sources outside our country? The answer clearly is no. Things have to change.

They must change. We put gasoline in cars now the same way we did 100 years ago. Nothing has changed. This piece of legislation begins moving us down the road toward change. This legislation has parts that include production. We incentivize additional production of fossil fuels and, yes, we are going to produce more coal, oil, and natural gas. Yes, we will use more fossil fuels. But, if that is all we do—if all we do is dig and drill, I call that ''yesterday forever.'' That is a strategy, ''yesterday forever,'' and every 25 years we will hang around this Chamber and wear our blue suits and slough around the halls and come to talk about an Energy bill that is ''yesterday forever''—dig and drill, dig and drill. It doesn't work.

We are digging and drilling, and we have 60 percent of the oil coming from off our shores. We must, and we do, incentivize additional fossil fuels production in this bill. We want to get, through clean coal technology, to zero emissions, coal-fired electric generating plants, and I think we can and will. So fossil fuels are important—oil, coal, and natural gas. This bill does much, much more than that.

This bill has a very robust conservation proposal. Saving a barrel of oil is the same as producing one, and we waste an enormous amount of energy. The bill has an efficiency title that is very important, with standards on everything we use every day, such as appliances and so on. It also has a renewables provision that is very important. We want to support and encourage renewable energy. Growing energy in our farm fields makes a lot more sense than requiring energy from under the sands of Saudi Arabia. There are biodiesel, ethanol, wind, geothermal, solar, and so many other forms of renewable energy.

Finally, there is a title that I played a significant role in helping to write, in addition to ethanol and others, and that is the hydrogen title. I believe we will ultimately have to pole-vault to a different kind of energy future. If our grandchildren are still running gasoline through carburetors, such as in the old cars or the fuel injectors that are on the new cars, then we have failed. If the automobiles on our roads are still consuming gasoline through the fuel injectors, then we have failed. That is why I believe the hydrogen and fuel cell future is our future. Hydrogen is everywhere. The fact is, with hydrogen and fuel cells, you get twice the efficiency of power to the wheel and water vapor off the tailpipe. We will get twice the efficiency of power to the wheel, and we can escape the addiction to gasoline for our vehicles. That is the futuristic approach to the title in this bill that deals with hydrogen and fuel cells.

Mr. President, we have done some awfully good work here, in my judgment. I will support an amendment that sets targets and timetables to be even more aggressive and to reduce dependence on foreign oil by 40 percent in 2020. We went to the Moon in 10 years, so we can certainly achieve this in almost 20 years. It is kind of a fixation with this ''black gold,'' as they call it, that we have had in this country, for a long, long time. We need it. We need it desperately to run our economy.

I remember when I was a small boy—and I grew up in a town of 300 people—they drilled an oil well 2 miles outside of town. In a town of 300 people, there is not a lot going on, except on a Saturday night when the bars are open and the barber gives haircuts until midnight and the café; stays open until midnight and the town is full of cars from farmers. There is not a lot going on in that town of 300 people, except for that Saturday night, when an oil well was drilled, and they put up the oil rig 2 miles from town. I remember that everybody from town would drive out there almost every day to look at the oil rig and all those lights. It was exciting. Nothing happened, nothing moved. It shined. It was the only thing around that shined. So you would drive out there and sit and watch that oil well. As they were digging with that big rig and all of the flashing lights, we thought this is going to change our life forever. It turns out it was a dry hole. I have never forgotten the excitement of the search for oil, the building of the rig, the lighting of the rig.

This country has been transfixed by that for well over a century and a half now. But the fact is, we are living on borrowed time for the kind of economy we have produced in this country, if we believe we can continue without change. That is why this bill is such an important piece of legislation.

I have mentioned a few of the areas in this legislation that are important. I don't want to go into great detail, but ethanol is a critically important alternative source of energy. As I said, growing energy in the fields is a wonderful way to extend America's energy supply. Biodiesel, exactly the same. Wind energy—taking energy from the wind in this country and turning it into electricity, using the electricity through the process of hydrolysis to take hydrogen from water and use it in hydrogen fuel cell vehicles—what a wonderful promise for this country's energy future.

That is exactly what we do in this legislation. We set targets and timetables in this legislation to try to convert America's vehicle fleet to hydrogen fuel cells. That is why this is so important. We have had now several years of stop and start and kind of stuttering around on energy. It is time for all of us, the President and the Congress and both political parties to understand the urgency of the need to get a workable energy bill. Not just any other energy bill, but one that looks to the future and relieves this dangerous addiction that we have for foreign oil. I would love, someday, to be able to tell the Saudis you can drink your oil, we don't need it; we are no longer dependent upon oil under the sands of the Middle East. I would love to have that opportunity. But we cannot now. If we are smart, and if we write an energy bill, including the one that now comes to the floor of the Senate and one we can improve, one that came out of the Energy Committee by a vote of 21 to 1—if we stick to this through conference and get a bill to the President, a good bill, I think this country will recognize good work, and this country will recognize that its future is far more secure because of what we have done.

I know the White House, today, issued a letter that said they are going to oppose what is called a renewable portfolio standard; that is, the move toward independence by requiring 10 percent of your electricity to be made from renewables. Look, we understand there are people who are going to oppose everything. That is the way it is. Mark Twain once said he would always be happy to debate as long as he could take the opposing side. He said it doesn't matter what the subject is, the opposing side will take no preparation.

We understand about all these people who oppose everything. The White House is opposing this standard that would require 10 percent of our electricity to come from renewables. That makes no sense. What are they thinking about?

Let us just write the best bill we can write. We have an awfully good start on that thanks to Senator DOMENICI and Senator BINGAMAN. When we are done, we will have done something very significant for this country's future.

I yield the floor and 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. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 775

(Purpose: To provide a substitute for the bill)

Mr. DOMENICI. Mr. President, the committee substitute is at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 775.

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

The PRESIDING OFFICER. Under the previous order, the substitute is agreed to and is considered as original text for amendment.

The amendment (No. 775) was agreed to.

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I am going to depart the floor and let the managers manage this bill, as they should. They are some of our most experienced Senators. The only thing I want to make sure is that the record is clear that following the offering of the amendment the Senator from New Mexico, or someone in his stead, is going to offer an ethanol amendment, and that the next amendment in order would be the Cantwell amendment.

Mr. DOMENICI. Reserving the right to object, does the Senator understand there may be some amendments to ethanol?

Mr. REID. Of course, I certainly understand that. I am only talking about first-degree amendments.

Mr. DOMENICI. I have no objection.

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

Mr. DOMENICI. I am waiting now momentarily for the final text of the ethanol amendment.

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

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

AMENDMENT NO. 779

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This amendment is the ethanol amendment. It is bipartisan in nature. I offer it in behalf of myself and Senators THUNE, HARKIN, LUGAR, DORGAN, FRIST, OBAMA, GRASSLEY, BAYH, BOND, NELSON of Nebraska, BROWNBACK, HAGEL, CONRAD, DEWINE, DAYTON, TALENT, STABENOW, COLEMAN, and SALAZAR.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, and Mr. SALAZAR, proposes an amendment numbered 779.

(The Amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. DOMENICI. Mr. President, I am sure this matter will take a little bit of time this afternoon, and from what we understand—I am not assured—there may be one, maybe two, perhaps even three amendments. But this is an amendment that has been worked on by Republican and Democrat members of the Environment and Public Works Committee and the Energy and Natural Resources Committee. Essentially, from the energy and natural resources bill it has the 8 billion gallons, but the rest of the language has been worked out with most of the jurisdiction going back to the Environment and Public Works Committee rather than the Energy Committee.

Let me say I am pleased with the agreement, the improvement that is included in it. For that I am grateful to Chairman INHOFE and his staff. They have helped immeasurably. Senators TALENT and JOHNSON and FEINSTEIN and CANTWELL have been very helpful during the Energy Committee considerations. Chairman INHOFE's assistance has been invaluable after we had done our work in our committee.

We now have before us what I think is a very important amendment, one that helps us make a significant step forward in the development of a domestic renewable resource.

This represents progress toward developing transport fuels made from domestic sources that can lessen dependence on foreign oil to meet our fuel needs. Congress has been working on the renewable fuel standard for nearly 6 years. I hope this will be the year that it passes. I fully support our raising the expectations that we have by including a goal of 8 billion gallons of ethanol in the national motor fuel mix by 2012. It is my firm belief that we must take every opportunity available in order that we help ourselves to produce more of the fuel that is part of our transportation activity in this great country.

In addition to making us less dependent on foreign sources for energy, increasing the production of domestic ethanol will help keep within our economy dollars that would otherwise be spent acquiring energy from overseas. And it will create jobs. One important analysis suggests that an 8 billion gallon renewable fuel standard will benefit the economy greatly. That analysis suggests it will reduce crude oil imports by 2 billion barrels; that, coupled with the 1 billion we have mandated in our bill, makes 3 billion, and it will reduce the outflow of dollars to foreign oil producers by $64 billion. It would create 234,000 jobs in all sectors of the economy, and clearly in many of the very large rural States of the West and Southwest.

It would add about $200 billion to the GDP between 2005 and 2012. It could create $6 billion in new investments. That is a significant infrastructure addition to our country. And it could increase—in fact, this study says it would increase—household incomes by about $43 billion.

The amendment also makes provision for increasing our output of biofuels from cellulosic biomass. Many in industry and the scientific community believe that this area holds enormous promise for vastly increasing domestic production of ethanol from this renewable resource.

The Energy Information Administration estimates that oil consumption and crude oil and finished petroleum product imports will continue to rise. Further, with gasoline prices hovering at record levels and domestic crude oil production declining, it strikes this Senator that we should be doing everything we can to maximize the production and use of clean, renewable, domestically produced energy such as ethanol and biodiesel.

Finally, I want to remind my colleagues that in our spirit of bipartisanship on the Energy Committee that amendments were included allowing a seasonal adjustment for California and increases in the use of biofuels sponsored by Senators FEINSTEIN and CANTWELL, respectively.

Now, we are prepared to begin consideration of any amendments our colleagues would like to offer to this amendment.

With that, I yield the floor and designate on our side that Senator LARRY CRAIG manage the bill.

I have checked this with the other side. There was a unanimous consent request that this amendment would be introduced now as the first amendment.

The unanimous consent request said then the Cantwell amendment would be introduced. I ask that be vitiated.

So we know what will happen, instead of that, the record reflects we will follow this tradition of the Senate, and after the ethanol amendment we

will go to the Democrat side, to the distinguished minority leader or his designee, for offering of an amendment of their choosing.

The PRESIDING OFFICER (Mr. COLEMAN). Is there an objection to vitiating the request?

Without objection, it is so ordered.

Mr. DOMENICI. I yield the floor.

Mr. CRAIG. Mr. President, I encourage all of our colleagues who wish to engage in the debate on this major national energy policy from the Committee on Energy and Natural Resources to come to the Senate.

We have the ethanol section that came out of committee with some identification now on the floor for debate and ultimately a vote that allows anyone who chooses to come to debate this or the whole legislation.

I will become involved with my colleagues over the course of the afternoon and tomorrow in debating not only the total substance of the bill, which is tremendously positive and puts this Nation on a path forward toward an abundance of energy sources, but it also recognizes all of the technologies are involved.

If I were to give this bill a title that the American public ought to refer to it as, I would call it ''America's Clean Energy Act'' because I think all we are about now and into the future as we adjust technologies, as we improve old forms of energy, as we bring old forms into the new economy, all of them by definition, we are going to ask on behalf of the American people for the cleaner source, and in many instances, very clean sources.

I yield the floor for any who wish to debate the issue.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I thank the Senator from Idaho for his leadership and work on this issue.

I note the Senator from Florida is here. I will make my remarks on the bill if he has time for me to do that. A lot of hard work has gone into it.

I like the title the Senator from Idaho suggested, ''American Clean Energy Act.'' I hope to explain why.

Let me step back a little bit and try to put what we are debating in some context. September 11 was a terrible surprise for this country. But we now know it shouldn't have been. During the 1980s and the 1990s terrorists attacked American interests around the world. If we had paid more attention then, we might not have been surprised on September 11, 2001.

The next big surprise to the United States will be to our pocketbooks, to our ability to keep our jobs, and our high standard of living in a more competitive world marketplace. We can avoid this surprise if we pay attention to the warning signs. Many of these warning signs have to do with energy. Suddenly, instead of the lowest natural gas prices in the industrialized world, we have in our country the highest natural gas prices in the industrialized world. Gasoline prices at the pump are at record levels. China and India are increasing their demand for energy and their purchases of oil reserves to supply it, which drives prices up. Because of high natural gas prices, manufacturing and chemical jobs are moving overseas, farmers are taking a pay cut, and consumers are paying too much to heat and cool their homes.

We can avoid this next big surprise, a surprise to our pocketbooks, by enacting, as the Senator from Idaho called it, an American Clean Energy Act that does the following things: First, lowers the price of natural gas to American consumers. The price of natural gas to American consumers is at about $7 a unit. Our economy was built on natural gas that cost $2 or $3 a unit. If you work at Eastman Chemical in eastern Tennessee, an area which has thousands of chemical jobs where blue-collar workers and white-collar workers have had good wages for a long time, this causes a massive problem because natural gas is the raw material producing chemicals. If natural gas can be purchased overseas at one-half, 60 percent, or 70 percent of the cost here, and if natural gas is 40 percent of the cost of producing the chemical, where do you suppose the 1 million blue-collar chemical industry jobs are going to be 10 years from now? Not in Kingsport, TN. Not around this country.

First we need to lower the price of natural gas for blue-collar workers. We need to lower it for farmers who are paying expensive amounts for fertilizer. We need to lower it for homeowners.

Second, we need to help to increase the supply of oil worldwide and reduce the growth of our dependence on oil. The Senator from North Dakota mentioned earlier we need to get over our addiction to foreign oil. It would be nice if we could just forget it, but we are not going to be able to forget it. What we need to do, realistically, is to increase the supply of oil worldwide because China and India and Brazil and Singapore and Malaysia all look over here and see we have 5 percent of the people, a third of the money, and we are consuming 25 percent of the energy. They want some of the action, too. So they are buying up oil reserves and keeping their smart people home and creating a demand that raises our prices. And for the foreseeable future we will have to depend upon some foreign oil. But we need to begin to reduce the growth of our dependence on oil. This bill does that.

Third, we need to move our country toward a more reliable supply of low cost, American-produced energy, especially nuclear power, which produces 70 percent of all of the carbon-free energy produced in the United States today. Let me repeat that: Nuclear power, a technology we invented in the United States, produces 20 percent of our electricity, but produces 70 percent of all of the carbon-free energy we have in the United States today.

Coal gasification and carbon sequestration are such long words that it took me a long time to figure out what we were talking about. We are talking about taking coal—which we have a 400-year supply of in this country—turning it into gas, and then making electricity out of the gas.

For States such as Ohio, where the Presiding Officer is from, or Tennessee, where I am from, and where we struggle with air pollution problems, it gets rid of the sulfur air pollution problems and gets rid of nitrogen and mercury and just leaves carbon. If we can advance our research and development for carbon sequestration—that is, capturing that carbon and putting it in the ground—then we will have for ourselves and for the world a transformed way of producing electricity that will provide a low-cost, reliable supply of American-produced clean energy in the amounts we need.

Finally, we need to produce energy in a way that as much as possible clears our air of sulfur, of nitrogen, of mercury, and of carbon. This should all add up to an American Clean Energy Act of 2005, legislation that puts our country on the path toward an adequate, low-cost supply of reliable, American-produced clean energy.

To accomplish this goal we must have aggressive changes in policy—and many of those are in this legislation as it is reported to this committee—aggressive energy efficiency and conservation, aggressively transforming the way we produce electricity, such as advanced nuclear or coal gasification and carbon sequestration, aggressively researching for new domestic supplies of energy, aggressively importing for the time being liquefied natural gas and aggressive research and development into new forms of energy.

I believe we were fortunate we could not pass an energy bill last year because circumstances have changed, and they have made this a better piece of legislation more likely to reach the broad goals I just mentioned. Specifically, high natural gas and oil prices this year make the situation more urgent.

Next, because of this urgency, perhaps we better understand the threat to our jobs from the growing demand for energy in India and China and other parts of the world. Next, because of the time we have spent in hearings and debates—and Senator CRAIG and I and Senator MARTINEZ and Democrat members, Senator DOMENICI, Senator BINGAMAN, we have had long hearings on coal, long hearings on nuclear, long hearings on gas—we have a better understanding of the new technology and what the emerging consensus is in this country, especially regarding nuclear and coal gasification and carbon sequestration.

I think, in our committee, we have a near consensus about the direction in which we ought to go on this very new way of going. That is an important development. We also see more clearly

the essential relationship between a clean Energy bill, which this is, and clean air legislation. So we come to the floor for debate not only with a better clean Energy bill, but, as Senator CANTWELL from Washington said at the end of our marking up of the committee bill, with a cleaner process.

Everyone on the committee has had his or her say. Now, not all of us got our way, but all of us had our say. And we had many votes. As Senator BINGAMAN said, they were almost never party-line votes. But they reflected the different opinions and different regions of the members of the committee. As a result, we come to this floor with only one dissenting vote in the committee of 22.

This bipartisanship, which has been mentioned many times, is the result of a lot of hard work and patience by the chairman and ranking member of our committee, Senator DOMENICI and Senator BINGAMAN. They have shown patience, they have shown tolerance, they have swallowed hard sometimes, and they deserve a lot of thanks for this legislation. They have led us down a very good path.

Now we have a chance to make the bill even stronger. The Finance Committee will recommend to us later this week tax incentives to further our goals. We will debate those. Then there are some important issues to be resolved about which we have some very different opinions, such as the Senator from North Dakota said we need to get rid of our addiction to foreign oil. Some people like CAFE standard increases. Some people like, as I do, incentives for hybrid cars, the efficient dispatch of natural gas; meaning encouraging States to send out of the most efficient natural gas plants, first, the gas we use. The committee did not adopt that, but I still think it is a good idea. We may hear from it again, maybe in an amended form.

A proposed renewable portfolio standard: The Senator from New Mexico, Senator BINGAMAN, may propose that or others may. He thinks it is a good idea. I think it is a bad idea. I think it is a tax on lots of people around our country who will not be building windmills and who do not need to pay higher taxes. They cannot afford it. I think it is an unnecessary Federal rule, when we have 17 States which, in their own ways, already have renewable portfolio standards. But we will have a chance to debate that and vote on it and come to a conclusion.

We will be talking about carbon and global warming. There are a great many ideas afloat within this Senate about that. I think it is fair to say there is a growing consensus about needing to produce carbon-free or low-carbon energy. There is not a consensus yet on what to mandate or what to order. There is a debate about the proper allocation of resources to encourage renewable energy. Renewable fuel is about 2 percent of all the fuel we use in the United States. Renewable energy, other than hydro dams—water over dams—is about 2 percent of all that we use. It is not going to be that much more. So we need to make sure that, within the renewable fuels, we equitably allocate the dollars that are spent as between geothermal and solar, for example, or solar and wind, for example, and that we make sure we are spending scarce dollars for programs and policies and incentives that will produce the largest amount of carbon-free or low-carbon energy.

So I am confident we can deal with these issues and create an even stronger bill as we go to conference with the House of Representatives.

It is fashionable and correct to say these days that to help us get a bill through our committee to meet our energy needs, we need every kind of energy. I suppose if somebody proposed subsidizing building bonfires in the front yard to heat our house, we would probably put it in just to get a consensus in trying to move it all the way through.

But it is also correct, and I believe more important, especially when we are challenged, as we are today, economically, to say we need priorities. So let me say, briefly, after participating in these 2 years of discussions and hearings, what this one Senator believes our priorities ought to be if we really want to have an adequate, reliable supply of American-produced clean energy so we can keep our jobs and our high standard of living and a more competitive world marketplace.

First, energy efficiency and conservation. Coming from the Republican side of the aisle, someone might say: That sounds a little odd. Maybe you don't really mean that. Maybe you are just saying that to make Democrats feel better. No. Energy efficiency and conservation is the best strategy for immediately moderating natural gas prices and stabilizing longer term markets. In other words, if we really want to lower the price of natural gas from $7, the place to start is conservation and energy efficiency. It will do it quicker and faster than anything else.

For example, the appliance efficiency standards in this legislation, which are twice as strong as last year's bill, should avoid the building of 45 natural gas powerplants of 500 megawatts each and will save consumers and businesses more than $57 billion through 2030, according to the American Council for an Energy-Efficient Economy. So 45 natural gas powerplants avoided.

The legislation also includes a 4-year national consumer education program that, when used in California, helped produce a 10-percent cut in peak demand, the equivalent of power produced by another 11 500-megawatt powerplants. If we were to strengthen the bill by adding a provision to encourage utilities to use first the electricity most efficiently produced from natural gas, we could save even more.

The oil savings amendment in this legislation will encourage the savings of 1 million barrels of oil per day—per day—by the year 2015, about the amount of energy produced by the projected drilling in ANWR. It is also about the same amount of oil produced in onshore drilling in the State of Texas. It is my hope that the tax incentive provisions recommended by the Finance Committee will include the proposal of the National Commission on Energy Policy, which Senator BINGAMAN has talked about, to encourage the purchase of hybrid and advanced low diesel vehicles with a $2,000 tax deduction, as well as tax incentives to encourage the retooling of plants in the United States to build those vehicles, which would add another 39,000 auto manufacturing jobs.

In other words, we do not want to create an incentive to build hybrid vehicles and have them all built in Japan. We would like to have those 39,000 manufacturing jobs in Minnesota and Tennessee and other States.

A second priority would be increased supply of domestic natural gas. The next section of this legislation that would have the most immediate impact on natural gas prices is the section streamlining the permitting of facilities for bringing liquefied natural gas, LNG, from overseas to the United States. It gives the Federal Energy Regulatory Commission, FERC, we call it, the authority for siting and regulating these liquefied natural gas terminals.

It preserves States' authorities under the Coastal Zone Management Act and other acts. This would make it easier to import, for the time being, LNG from overseas, which is then added to our pipelines. To do this, requires large terminals in which to temporarily store the gas. We only have four such terminals. There are nearly three dozen applications pending for more terminals—some onshore, some offshore—but the application process is laborious. This legislation accelerates the decisionmaking process, while preserving a proper amount of input from local governments about the location of these terminals.

In addition, I believe it is time to explore, where appropriate, more of the vast natural gas reserves that we have offshore. This can be done in ways that do not harm the coastlines or the landscapes. Drilling rigs can be put far offshore so they cannot be seen. States can be given the option of deciding whether they will permit such drilling and, in the process, collect some of the revenues.

I see the Senator from Florida waiting to speak. I saw his map a little earlier, and I know he is likely to talk about this subject. My feeling about this is that if Virginia or North Carolina or Florida agree that they would like to put oil and gas rigs so far offshore they cannot see them, and use some of those revenues to build up their universities or lower their property taxes, I think they should be able to. But if the State of North Carolina

or Florida does not want to see those things and does not want them at all, I think they should have that option as well. Those are a number of things that would increase the supply of natural gas.

After conservation, after increased supply of LNG and domestic gas, my third priority would be a new generation of nuclear power. This legislation needs to include $2 billion for research and development and loan guarantees to help start at least two new advanced technology nuclear powerplants. The Senator from Idaho is a leader in this work. So are both Senators from New Mexico. After conservation and increased supplies of natural gas, expanding and building new nuclear powerplants stands virtually alone as America's best option for an immediate, substantial, and reliable supply of American-produced clean energy.

Why is that? One hundred and three nuclear powerplants today produce 20 percent of America's energy, almost 70 percent of our carbon-free electricity. This is a technology we invented. Since the 1950s, the U.S. Navy has operated dozens of reactors—does so today—without ever a single incident, regularly docking at ports on our coasts. France is today 80 percent powered by nuclear power. Japan is adding a nuclear powerplant a year. Yet the Tennessee Valley Authority's Browns Ferry plant is the first substantial nuclear startup since the 1970s.

If we are talking about carbon-free electricity, nuclear power is already 70 percent of our carbon-free electricity. In an economy this big, after we get through with conservation, after we import more LNG, nuclear power stands alone as our best option to have large amounts of carbon-free electricity, and we need to get on with it.

Fourth, waiting in the wings is coal gasification and carbon sequestration. It is often said that America is the Saudi Arabia of coal. We have a 500-year supply. Some say 400; some say 500. We have a lot. We have the technology to turn the coal into the gas and then burn the gas to make electricity in a way that eliminates most of the nitrogen, sulfur, and mercury. That would put every county in Tennessee in compliance with Federal clean air standards. The Smoky Mountains would still be smoky, but they wouldn't be smoggy. It would clean the air.

We are on the edge of being able also to recapture the carbon produced in this process and store it underground. If we can add this clean coal process to nuclear power, one, we will lower natural gas prices for farmers, homeowners, and blue-collar workers because it will not be as necessary to use natural gas to make electricity; and, two, we will have an adequate supply of low-cost, carbon-free energy that is much less dependent on foreign sources.

If we want to do as the Senator from North Dakota indicated earlier—get rid of our addiction to foreign oil—we know the way to do it. A lot of the provisions are in this bill: First, conservation and efficiency; second, increased supplies of natural gas, which is clean; third, nuclear power; and fourth, coal gasification and sequestration. If we did that, we would transform the way we produce energy, and we would have a true American clean energy bill.

Coal gasification and carbon sequestration would clean the air of major pollutants and, importantly, show the rest of the world how to do it. A point I learned not long ago was that some of the major environmental groups support a coal strategy to clean the air. Because if the United States perfects coal gasification and sequestration, then China and India and Singapore and others will do it. If we do not, they will go ahead building conventional coal plants which are dirtier. If we are really interested in clean air, in carbon-free air around the world, this is the strategy we will follow.

It is my hope that the loan guarantees and tax incentives in this legislation will include $2 billion in tax incentives for the deployment of six coal gasification plants by 2013 and loan guarantees for industrial site commercial applications. For carbon capturing sequestration from coal plants, we need $1.5 billion in research to demonstrate commercial-scale carbon recapture and geologic sequestration at a variety of sites. Substantially, these provisions are in the legislation Senator JOHNSON of South Dakota and I offered which we called the Lower Natural Gas Prices Reduction Act of 2005, and many of the provisions are in this bill.

I have a couple of more priorities, and then I will be glad to yield the floor. I see others waiting.

Fifth, research and development—if we are to transform the way we make electricity, we have to accelerate research and development of these projects. Developing advanced nuclear reactors with a lower construction cost should be the first priority, if we really want carbon-free electricity. Next should come demonstration projects for large-scale carbon sequestration because if it succeeds, it could transform clean energy not just here but everywhere. Accelerated research into hydrogen production, as Senators DORGAN, AKAKA, and others have advocated, should come next, keeping in mind that it is several years down the road. It will require nuclear or coal or natural gas powerplants to produce the hydrogen. Then for the longer term should come fusion.

Finally, a word on renewable fuels and energy as a final priority. About 2 percent of fuel for our vehicles is renewable fuel, chiefly from corn-based ethanol. About 2 percent of our electricity is produced by nonhydro renewable energy, chiefly biomass, which we burn, wind, solar, and geothermal, hot air coming out of the ground. Our objective should be to encourage R&D and breakthroughs that help these small numbers become bigger so that renewables make greater contributions. This legislation includes authority for such research. For example, new advances in solar technology suggest that solar shingles on house tops and businesses may have significant potential.

It is important to make our financial subsidy for these renewable sources equitable among themselves. For example, the renewable production tax credit in the Federal Tax Code today has already committed billions over the next 5 years—I believe the accurate figure is about $2 billion for the next 5 years—almost all to wind power, almost nothing to solar. That is not right. We should have advances in solar. And to the extent we want to put money behind renewable energy, solar and geothermal, as well as wind, should have an opportunity to succeed. Hopefully, this legislation will correct that by creating a new investment tax credit for solar energy such as the one Senator JOHNSON and I introduced earlier this year which would make it available to homes and businesses and would cost $380 million over 5 years.

We also need to make sure that these tax dollars are spent for renewables to help launch new technologies, not permanently subsidize them, and that the amount of money spent bears some relationship to our total energy. For example, extending the production tax credit for 3 more years, as it is written, would mean taxpayers would be spending a total of about $3 billion over the next 5 years building huge windmills that when the wind blows provide little more than 1 percent of our electricity needs.

By comparison to that $3 billion over 5 years, the Budget Committee has told us we can only spend $11 billion on the entire Energy bill. I would suggest we seriously consider instead of allocating $3 billion to windmills, we might spend $500 million to extend the $2,000 tax deduction for the purchase of a million new hybrid and advanced diesel vehicles, provide $750 million for retooling the plants in which to make the vehicles and make sure they are here in the United States. That is 39,000 new auto manufacturing jobs, according to the National Commission on Energy Policy. We might provide a half a billion dollars for carbon sequestration demonstrations, and we might have $1.25 billion left over to launch advanced nuclear reactors and a new generation of clean coal gasification plants.

There are many ways to add up these dollars. We need to make sure the numbers I am talking about are exactly right. But basically that is $3 billion for windmills. I am suggesting we might be able to spend it more effectively if we really want carbon-free electricity.

These are one Senator's priorities for producing an American Clean Energy Act of 2005. Only steps like these will produce adequate conservation and an adequate supply of reliable, low-cost,

American-produced clean energy. Only steps like these will lower natural gas prices, which we can and must do, reduce the growth of our dependence on oil, and save the United States from the next big surprise, the surprise to our pocketbooks if we fail to prepare for the oncoming energy crisis.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I thank my colleague, Senator ALEXANDER, for the tremendous level of involvement and importance he placed on this issue of energy, as a full participant in the committee, there to talk about, look at, research, and find answers for many of the proposals that are embodied in this critical piece of legislation. I thank him as a major contributor to this issue. He has well laid out this afternoon the importance of this legislation and getting this country back into the business of producing energy but also under that critical new caveat of clean energy that we see and believe to be so important to all of us.

I see the junior Senator from Florida on the floor, who, like the Senator from Tennessee, has been a major participant as a new member of our Energy and Natural Resources Committee. Already his important fingerprints are on this major piece of energy legislation.

I yield to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. MARTINEZ. Mr. President, I thank the Senator for his comments. I appreciate the opportunity that the chairman, ranking member, and other members have given me to work on this important piece of legislation.

As the Senator alluded, I came late to the work of this committee on this bill, having joined the Senate just this year. Much of the work had previously been done. I am grateful for this opportunity and for the deference the chairman has shown and for the opportunity to work on these important issues.

I compliment the Senator from Tennessee for his comments. I thank him for doing a thorough review of the entire bill. I appreciate the comprehensive way in which he analyzed it. I have appreciated greatly his passion on certain aspects of this bill and his great understanding of all of the issues that it raises. I appreciate very much his review of the entire bill.

Today, as he forecasted, I rise to speak on an issue which is of great concern to the people of Florida. The people of my State are very concerned about development of offshore energy resources in what has been known as the Eastern Planning Zone of the Gulf of Mexico.

As my colleagues are aware, in this bill is an inventory amendment that I will work to strike from the bill. There are also efforts to attach additional language to the Energy bill that I believe would be a poison pill and counter to what this bill is all about; namely, this bill is about conservation, new technologies, and jobs.

I further thank the chairman of the committee, Senator DOMENICI, and the ranking member, Senator BINGAMAN, for the fine work they have done in crafting a bipartisan, comprehensive, and significant package that diversifies America's energy supply, increases conservation and production, and employs innovative technologies to meet America's energy needs. I thank the chairman and ranking member for allowing me to be part of this process and this legislation.

As the chairman himself has said, this bill will make a real difference in America's energy landscape. I am proud to have voted for this legislation in committee, and I look forward to voting for it on the floor—if we can address some areas that are critical to my State's future, environmentally, economically, and even militarily.

Mr. President, in the Energy bill that we are considering, there is a provision that requires an inventory of oil and natural gas resources on the Outer Continental Shelf. I opposed this amendment in committee because it contains something we in Florida don't want, it starts something that we in the United States do not need, and it opens the door to a number of problems—environmental problems, economic problems, and unnecessary challenges for our military. Why would we inventory an area where we are never going to drill?

The inventory language in the Energy bill is a huge problem for Florida. It tantalizes prodrilling interests. Allowing an inventory is like saying to prodrilling States, ''Come and get it.'' I have received assurances from my friends on the other side of this issue that States such as Florida—States that do not want drilling on their coast—will not have to take it. Fine. That is Florida's position. I can clearly state that we do not want drilling now, and I do not see a scenario anywhere on the horizon where we could change that position. So why, given our objection to drilling, would we spend the resources and damage the environment on the Eastern Planning Zone to do this inventory?

An inventory is not a benign thing. It involves detonating explosives, enough to shake the crust of the Earth, listen to what comes back, and, in the meantime, we may also destroy fragile sea life.

Just briefly, if you look at the cost of this inventory, people in the Minerals Management Service tell me that to use the most up-to-date technology to perform any inventory of this magnitude, the cost estimate would run between $75 million and $125 million for each frontier planning area. Nowhere in this legislation can I find a section that suggests how we recoup the cost of such an inventory.

So I look forward to working with Senator DOMENICI and my colleagues to find a solution to this question of the inventory—something that would preserve the inventory option for those States that want it and let States such as Florida remain unaffected.

But worse than the inventory is what are being called the ''coastal killer'' amendments. We don't know when these amendments will be offered or if they will be offered, but the language first came up in committee, eventually withdrawn, and the nature of these amendments could be so devastating to Florida that I believe they ought to be addressed today. I am pleased that my colleague, the senior Senator from Florida, addressed them today. These amendments should be explained, and I am here to argue that these amendments must be and ought to be rejected.

The amendments aim at three things: drawing brandnew, unprecedented boundaries for each State, allowing States to opt out of the moratorium, and creating huge incentives for States to opt out of the Federal moratorium. If these amendments were to become law, that buffer zone shrinks to just 21 miles—well below what it is today. Let me be clear: 21 miles is no buffer zone, and it is of no comfort to Floridians.

If we open additional drilling in the Eastern Planning Zone, it will damage the fragile ecosystem, Florida's economy, and it will pull the rug out from under the military that has made the commitment—an increased commitment—and made the investments and moved a majority of their training operations from Vieques and other places to the clear coastal waters of Florida.

Mr. President, to say that these coastal killer amendments are giving States the freedom to choose is ignoring the fact that Florida will be losing its choice. We will stay in the moratorium, but if Alabama opts out, you bring drilling to Florida's shores—whether we like it or not. It is this aggressive effort to wade into what has traditionally been Florida's buffer zone that has drawn opposition. The Eastern Planning Zone must not be opened.

For those who do not know the location of the Eastern Planning Zone in the Gulf of Mexico, let me show you this chart. The Eastern Planning Zone is in this area, which is clean and clear, as you can see. There are active leases in the gulf. Note that this portion of the gulf is literally tapped out. This is the area where drilling and leases are active at the current time—off Texas, Louisiana, and Mississippi, where it is literally covered up. When we think about this area, the Eastern Planning Zone, which is right here, we just don't care in Florida to see this kind of encroachment on our pristine coastline, our ecosystems, as it is over here. So for those of us who believe our boundary is here and that east of this we should exercise some control and some mandate, we simply do not care to see any change in the status quo.

Oil and gas companies are now looking at this portion of the map—Florida's coastal area—and thinking, Let's

open that area. To my colleagues, I say, as Senator NELSON said before me, the answer to that is simply no.

Last year, more than 74 million people visited Florida to enjoy its coastline and wonderful climate. Families return year after year to their favorite vacation spots to relax under our brilliant blue skies, at powdery white beaches, and our crystal-clear emerald waters.

The people of Florida share a love and appreciation of the Atlantic Ocean and the Gulf of Mexico, its coastal habitat and our wetlands, which make a very complex ecosystem, and also a very special place to live.

I share these facts for one reason: The people of Florida are concerned their coastal waters are coming under increased pressure to exploit possible oil and gas resources. The people of Florida do not want that to happen. Floridians are adamantly opposed to oil and gas exploration off our coastal waters. We have serious concerns that offshore drilling will increase the threat of potential oil spills, seriously damaging and threatening marine wildlife and their coastal habitat.

In addition, Floridians are extremely concerned that drilling operations would produce massive amounts of waste mud and drill cuttings that would be generated and then sent untreated into the surrounding waters.

Of the 74 million people who have visited the Sunshine State in 2004 to enjoy its beautiful beaches, exciting amusement parks, and wonderfully abundant wildlife and natural splendor, I daresay not a one of those people came to Florida without spending some of their hard-earned dollars.

Here is what tourism means to Florida: 840,000 people directly employed in the industry and an economic impact of $46 billion a year to our State's economy. If the unforeseeable happens, whether it is a hurricane, an industrial accident, an intentional or terrorist act, and our coastlines become soaked with oil, there is no amount of relief aid that can clean up the economic disaster that would be Florida's. Entire communities would be totally devastated.

At the end of the day, what I would like to see is for us to codify in law positions that are supported by me, the senior Senator from Florida, BILL NELSON, and Florida's citizens. Our view is that we must prevent any further encroachment into Florida's waters and coastline. This is necessary to protect our tourism industry and the pristine beaches and coastal areas that would be ruined if an unfortunate oil spill or disaster took place.

Perhaps one of the most compelling arguments entails what drilling in the area of the Eastern Planning Zone would mean to national security. We cannot ignore the fact that lifting Florida's protections will put our military at a training disadvantage. Let me repeat: Lifting Florida's protections will put our military at a training disadvantage.

Let me highlight just some of the military operations that use this platform-free zone for training. We have to allow our military to continue training for battle preparedness. Our young men and women deserve the best training we can afford. Vieques gave them that capability. Now that Vieques in Puerto Rico is closed, Florida's Panhandle plays an increasingly significant role. Oil and gas operations must not be allowed to impede on that training.

Keep in mind, drilling in Florida's part of the gulf is not a new argument. This is something that has been attempted for some time. Here is what MG Michael Kostelnik, the base commander of Eglin Air Force Base, said in May of 2000:

> We continue to place the most severe restrictions in the eastern portion of the proposed sale area where oil and gas operations would be incompatible with military training and testing operations.

If we allow drilling there now, the military will be set back in their training, their preparedness, and moved back to square one in trying to find an area suitable for this kind of massive military joint operation.

This is a question of national security, and it is why in this area of Florida, where there is great land mass available to the military, as well as this entire gulf area, for training operations, that in this BRAC process Florida did rather well, and in fact we saw increases of training commands coming to this area of Florida for the very reason of what we have to offer, the environment and the pristine and open areas for them to train.

I want to take a moment to discuss how we arrived at the position we find ourselves in today. The distinguished Senator from Louisiana, Ms. LANDRIEU, has stated publicly that she wants to be very respectful of States that do not want drilling off their coast—they do want drilling in Louisiana. I appreciate that sentiment and I feel the same respect for the rights and privileges of the various States. In fact, that is why we are here today.

The coastal killer amendments will weaken Florida's protections. Under these amendments, the will of the people of Florida, which is to keep drilling away from our shores, will be thwarted.

Senator LANDRIEU says she also wants to leave an option open for States that might want to drill off their shore. There is much work to do, but we must work to solve our Nation's energy problems without looking to Florida's coasts. They are not open for consideration.

As many of my colleagues know, Senator NELSON and I are working together to engage a coalition of Senators to help beat back any efforts to encroach upon our coastal waters. I am proud to say in doing so I follow in the footsteps of our predecessors, former Senators Connie Mack and Bob Graham, and a bipartisan Florida delegation, in our firm opposition to drilling off our coasts.

Let me again take a moment to praise Chairman DOMENICI and Ranking Member BINGAMAN for putting together a comprehensive, bipartisan, and significant energy policy that is forward looking, forward thinking, and a road map of where we as a nation need to go in order to address the challenges that confront us today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Will the Senator yield?

Mr. MARTINEZ. Yes, I will yield.

Mr. NELSON of Florida. Mr. President, I thank my colleague from Florida for an excellent and comprehensive statement where he has touched on the things that threaten Florida—not only the environment, not only the economy, particularly the pristine beaches, or our guests who come as tourists, the military, but he has given an overview that I think is excellent, and why in the process of debating this very important Energy bill we need to come to a resolution that the existing moratorium in the Outer Continental Shelf will not be lifted.

Senator MARTINEZ and I represent the State of Florida, but there are many other coastal Senators—I will name one whom I had breakfast with this morning, Senator LINDSEY GRAHAM of South Carolina, who also has an economy in part based on tourism, the Myrtle Beach area. It is well known. Does he want oil rigs off the coast of South Carolina? Of course he does not.

We will find on the Pacific coast, on the Atlantic, as well as us, concern about this eastern planning area, which includes this lease-sale 181, that there are a bunch of Senators who see this as a direct threat to us. Interestingly, the geology shows that there is not much oil and gas there. We have had innumerable dry holes in the attempts at drilling out in the gulf.

So I wanted to take the opportunity to thank Senator MARTINEZ for an excellent statement.

Mr. MARTINEZ. I thank the Senator. I appreciate the kind comments. I also would like to say that I know Senator BURR is greatly concerned. We sat side by side in the committee, and he shares the concerns for the State of North Carolina and its coastline. What we see is a number of Senators who choose to protect their own interests, their own economies, and I also know the distinguished Senator from Louisiana is looking out for their own economy. So what we have to do is find a way that we can live and let live, not encroach, and allow each of the States to make decisions based on their own perceived self-interests. For a long time, Florida has been keeping our coastline clear.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. CRAIG. Mr. President, will the Senator from South Dakota yield without losing his right to the floor?

Mr. JOHNSON. Certainly.

Mr. CRAIG. I ask my colleagues to consider that the ethanol title is now before us. I believe there are several amendments out there, and we would like to move this through in the next day or so. We would hope that some of our colleagues who have those amendments would come to the floor this late afternoon and evening and offer those amendments. So for those listening and for those staffs who are aware, we would ask them to bring those amendments forward so that we could consider them as we move, we hope, in a timely fashion through this legislation.

I thank my colleague from South Dakota.

Mr. JOHNSON. I thank my friend and colleague from Idaho.

Mr. President, during the last 4 months, the Senate Energy and Natural Resources Committee, on which I serve, has worked diligently toward completing a balanced and comprehensive Energy bill. Through the leadership of Chairman DOMENICI and Ranking Member BINGAMAN, the committee moved forward in a bipartisan fashion toward improving the reliability of our Nation's electricity grid, adopting provisions to encourage Indian tribes to develop clean energy projects and took steps toward addressing past manipulation of western electricity markets, all the while moving to improve the energy efficiency of our economy.

The committee also adopted an amendment I offered along with committee members—Senators TALENT, DORGAN, and SALAZAR—in a bipartisan fashion, once again, to increase the amount of renewable fuels used in the Nation's gasoline supply.

The amendment before the Senate today creates an 8-billion-gallon renewable fuel standard, RFS, that will lessen our dependence on foreign sources of energy while increasing the availability of a clean gasoline fuel extender. Implementing a renewable fuel standard is part and parcel of our goal in producing a balanced and forward-looking energy bill.

Why must we do more to promote and develop renewable fuels?

In 2003, net imports of crude oil accounted for 56 percent of our domestic petroleum consumption. Americans will spend over $120 billion in 2005 on foreign imports of oil. According to the Department of Energy's Energy Information Administration, petroleum imports are projected to reach 68 percent in 2025. This is simply untenable. We need to harness new supplies and conserve better if we are to break this dangerous dependence on foreign oil.

Renewable fuels—ethanol, biodiesel, and cellulosic biomass—are grown, produced, and refined here in the United States. Those on the right and the left of the political spectrum agree that we need to increase the production of renewable fuels as one important tool toward lessening our dependence on foreign oil.

In 2004, the United States produced almost 3.5 billion gallons of ethanol. That level of renewable fuel production directly replaces millions of barrels of foreign oil annually and reduces our trade deficit, all the while creating jobs at home in the United States.

As States look for solutions to reduce petroleum fuel use, renewable fuels keep appearing as a critical component to any strategy. Thus it is no surprise that a May 2005 staff report by the California Energy Commission determined that increasing to 10 percent the amount of ethanol blended into a gallon of gasoline in California would reduce by 28 percent the amount of petroleum used in that State by 2025.

In addition to displacing imported oil, renewable fuels also lower retail gasoline prices—lower gas prices for Americans. Contrary to some of the falsehoods that some have tried to peddle, if these clean-burning fuels disappeared from the marketplace tomorrow, your constituents would pay more at the pump for a gallon of gasoline. At the end of April, the average nationwide price for a gallon of gasoline was $2.25, and the spot market for a gallon of wholesale ethanol is at a price of $1.24 per gallon of ethanol—$2.25 per gallon for gasoline, $1.24 per gallon of ethanol. It doesn't take a genius to figure that the more ethanol blended in the gallon of gasoline, the lower the price overall to consumers.

Perhaps the better question to ask is not why gasoline prices are so high, but why isn't ethanol used more widely in the marketplace? Apparently, there are many starting to ask that question, and not just farmers and ethanol producers. On May 5, the California Independent Oil Marketers Association wrote to the California Air Resources Board seeking approval to use up to 10 percent ethanol blended gasoline in the California market. In the letter to the California Air Resources Board, the Independent Marketers state that using a 10-percent blend as opposed to California's current 5.7-percent blend would provide more stability to the State's fuel supply.

It is not just marketers seeking greater use of ethanol. The Consumer Federation of America, in a May 2005 analysis on the difference between gasoline and ethanol prices, concluded that because of the difference between the wholesale price of ethanol and the average wholesale price of gasoline, the consumers purchasing gasoline blended with 10 percent ethanol are saving as much as 8 cents a gallon versus fuels not blended with ethanol, lowering the price at the pump by 8 cents a gallon. Renewable fuels, therefore, extend supplies, reduce dependence on foreign oil, and lower prices at the pump for consumers.

The amendment before the Senate would phase in, over 7 years, a nationwide renewable fuels standard of 8 billion gallons. Let me put that in some perspective. In 2004, the United States consumed about 160 billion gallons of gasoline, and the U.S. domestic ethanol production topped out at about 3.5 billion gallons—160 billion gallons of gasoline, 3.5 billion gallons of ethanol.

With nearly a billion gallons of production under construction, the previous effort to implement a 5-billion RFS by 2012 is woefully inadequate to meet growing production. Phasing in an 8-billion-gallon renewable fuel standard over 7 years can be accomplished. Increasing production will meet the requirement, all the while creating 234,000 jobs and adding $20 billion in gross domestic production between 2005 and 2012.

This amendment will also create opportunities for cellulosic ethanol and sugar cane ethanol and spurs biodiesel production in the South and Western United States. The amendment includes language championed by my colleague and friend, Senator CANTWELL of Washington, which will further incentivize cellulosic ethanol.

With record-high gasoline prices, with an ever-growing dependence on foreign sources of energy, our Nation must do more to promote and utilize renewable fuels. Creating a strong renewable fuel program that captures biodiesel, ethanol, and other renewable energy sources must be a cornerstone to the comprehensive energy bill.

Mr. President, it is with great satisfaction that I have this opportunity to speak to the 8-billion RFS provision that was added to the Energy Committee's bill which was voted out on a 22-to-1 passage of the total bill and with great support of the ethanol provision in that bill. I am confident that this body will maintain that 8-billion RFS requirement.

All the more so, it is important because the House Energy bill contains only a 5-billion-gallon RFS, a level that is simply inadequate, that the ethanol industry is on the verge of outstripping already even without an RFS. If we are going to be serious about displacing billions of gallons of foreign petroleum, if we are going to be serious about reducing the dependence on foreign petroleum, of reducing our trade imbalance—which is imbalanced, in large measure, because of the massive importation of petroleum—if we are going to have a foreign policy and a military policy that is not impacted by the need to protect and defend the oil lanes around the world in unstable Third World areas, if we are going to create more jobs—not just in a handful of communities but in rural communities across this country—if we are going to drive up the prices that farmers get for their product while at the same time giving them an opportunity to benefit from the dividends of the stock they own in these ethanol plants, then it ought to be obvious, whether you come from farm areas or urban areas, that this RFS makes all the sense in the world, for the sake of our economy, for the sake of clean air, for the sake of our foreign policy, for the sake of trade policy, for the sake of jobs.

I am pleased this particular legislation with its broad-based bipartisan 22-

to-1 vote out of the Senate Natural Resources Committee is on this floor and within the coming week or so we will be able to pass this bill, go to conference, and, I am confident, work out the differences with our colleagues on the House side and get this bill to the President's desk. Finally, after years of turmoil and effort, we will have a comprehensive energy bill that will benefit the entire Nation.

I am pleased we have reached this point. I am pleased with the great success of the 8-billion RFS amendment. I look forward to its passage and urge my colleagues to be supportive of this RFS requirement contained in the bill coming to us from the Energy and Natural Resources Committee.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. THUNE. Mr. President, I congratulate the leadership of the Energy Committee, the leadership of the Environment and Public Works Committee, coming to an agreement on this particular amendment we have under consideration here today. This, as my colleague from South Dakota noted, is an issue of great importance to the energy security of our Nation and to our economy.

We have an opportunity here today to put together a bill and meld on the floor of the Senate a couple of different provisions that have come out of different committees of the Senate. The Energy Committee and the Environment and Public Works Committee, on which I serve, dealt with the renewable fuel and ethanol provisions that we reported out this year. What this does is enable us to reconcile, here on the floor, the conflicting or competing, if you will, jurisdictions between those committees. It puts into place an 8-billion-gallon renewable fuel standard.

We are at this point, we are here, and it is long overdue. This Energy bill has been kicking around for several years. Back when President Bush was first elected, the task force was composed, they met, came up with recommendations submitted to the Congress. The Congress subsequently acted in the last session of Congress, only to have the wheels fall off toward the end of the Congress in an environment that probably was more highly politically charged than anything else.

However, the reality is we are here today in the Senate—after the House having passed an Energy bill—with an opportunity to pass an Energy bill in the Senate, to get it into conference, and to come out with a conference report that we can send to the President to be signed into law.

This is an important piece of legislation for a lot of reasons, one of which is the JOBS bill. This is about creating economic opportunity for people in this country. We passed a comprehensive Energy bill which is long overdue. We will have the opportunity to create a lot of jobs for Americans across the country with the various provisions in the bill by adding to the supply of existing energy sources we have, creating new energy sources and diversifying our energy supply in areas I am very interested in, such as renewable fuels. The conservation incentives in this bill are good for America, both for people who purchase cars and for manufacturers who produce cars. There are a lot of things about this bill that are necessary, if we are going to get our country back on track toward the path of energy independence.

Having grown up 30 years ago now, I remember going through an energy crisis, with everyone wringing their hands about how dependent we are on foreign sources of energy. At that time, we were over 50-percent reliant on foreign sources of energy, saying we have to do something about it. Here we are, 30 years later, at 55-percent dependent upon foreign sources of energy.

We still have to get much of our energy supply from other places around the world, places that are very unstable, which create tremendous pressures on us not only in terms of our economy but also our military commitments that are necessary in order to protect those areas of the world that are primary conduits of energy for our country.

It is about the economy. It is about energy security. It is about jobs and about reducing the cost of energy for Americans. Look where gas prices are today. That is why we are where we are. This is a time we have the impetus for getting an Energy bill passed because people are frustrated and are looking to the Congress to act. They go to the pump, and pay over $2 a gallon—in some places well over $2 a gallon—for gasoline. They are looking for Congress to take action that will help address the long-term supply problems we face as a Nation, which are creating this demand today for energy that continues to push prices higher and higher.

This comprehensive Energy bill is an approach which I believe addresses many of the components. Parts of this bill address many of the needs out there, one of which, of course, is additional supply. Not too long ago I had the opportunity to join with a number of my colleagues in the Senate and travel to the North Slope of Alaska. Earlier this year, during debate of the budget, we authorized exploration for energy in Alaska. In my view, when we have a million barrels a day of additional production we could bring online with ease, which will reduce the pressure we have on oil supplies in this country and continue to lessen our dependence upon foreign sources of energy, it is an important part of this debate. So additional supply is part of this discussion.

More particularly, what this amendment deals with, is the comprehensive need for diversifying our energy supply in this country and moving more toward renewable sources of energy. In my State of South Dakota, in the State of Minnesota, in the State of Iowa, and all across the Midwest, we have rows and rows and rows of corn and rows and rows and rows of soybeans. I look at that as a food source, and it is. We feed it to cattle. We use it in a lot of different ways. However, it can also be converted to energy. A bushel of corn can be converted to 2.5 gallons of ethanol. That puts energy in the pipeline for this country that will lessen our dependence upon foreign sources of energy.

What this amendment does is create a market. It says we are going to have, phased in over a 7-year period, an 8-billion-gallon market opportunity for ethanol producers in this country. That is good for the farmers of the Midwest, the farmers of South Dakota. It puts more money in their pocket. They can take their corn down to an ethanol plant and receive 10 or 15 cents a bushel more for it than they would if they put it on a rail car headed to some terminal elevator somewhere. That is good for the economy and for the farmers of this country. It is good for the consumers of this country, the people who have to buy energy.

Ours is a State with long distances. We are very reliant upon tourism and reliant upon the farm, ranch, and agricultural economy. We are very reliant upon our small businesses who have to get to their destinations. We are a State which is very energy dependent and energy intensive. Our State, similar to many others in the Midwest, spends a lot of money on energy. When gas skyrockets to well over $2 a gallon, it has a profound impact on the ability of our State to attract economic development, to bring the tourists to our State, and to support the economy there. So this is an important issue not only for those who are producing the crops that can be converted into energy but also for those people across this country, those families, those small business people, those farmers, and those ranchers who are faced with higher and higher energy costs. This is an issue that is about our economy.

I would also say that when an ethanol plant is created, it brings a whole new vitality to rural areas. There are a lot of rural areas of our country and many in my State of South Dakota. We have a number of ethanol plants in my State. Each time another comes online, and every time we build another ethanol plant that produces 40 million, 50 million, or 80 million gallons of ethanol a year, it creates 40, 50, or 60 new direct jobs. It also creates a lot of ripple-effect jobs throughout the economy, indirect jobs that help restore and revitalize rural areas of this country, which are struggling for their very survival every day.

This is about the economy of rural areas. It is about the economic impact that passage of this legislation could have on consumers in this country. It is about the jobs that are going to be created in America. That is why, from so many different perspectives, this is

good policy. This is something we, as a Congress, ought to be doing. We ought to be looking at those rows and rows and rows of soybeans and those rows and rows and rows of corn and the renewable things we grow every year.

We have a finite petroleum-based product—hydrocarbons and fossil fuels—that compose our energy supply today, but every year we can grow, because of the good work of the farmers in this country. We can continue to grow these products, these commodities, that can be converted into energy sources that will make America more secure going into the future.

An 8-billion renewable fuel standard—and as my colleague from South Dakota mentioned earlier, the House is at 5 billion gallons in their bill—it is important. I would like to see a 12-billion or 15-billion gallon threshold, maybe to the chagrin of some of my colleagues in the Senate who maybe are not as favorably disposed to renewable energy. However, the reality is this is good, clean energy. This is energy that lessens our dependence upon foreign sources of energy that makes our country more energy independent. That is good for the economy of the Midwest.

With all the jobs involved with this, with all the impacts I have mentioned—I also add that it is good for the environment in this country—this is good policy in creating a permanent 8-billion-gallon renewable fuel standard market for ethanol in this country that will put us on a path toward energy independence. It is something we ought to have a lot more of in this country.

I hope, as this legislation moves forward in this process, the 8-billion-gallon renewable fuel standard will be adopted by the Senate and will be part of the bill we send into conference with the House. And when we get to the negotiations with the House, I hope we will be able to retain that level of renewable fuel standards because it is important to America's future.

I urge my colleagues, not only on this amendment but as the bill moves forward, to support this amendment and to resist other amendments that could lessen, in any way, the commitment we are going to make to 8 billion gallons of ethanol for America's future.

It is about jobs. It is about the economy. It is about more dollars in rural areas that will help our farmers and ranchers survive. It is about keeping our small communities going. It is about energy independence for America's future. It is about a stronger, cleaner, and better environment. For all those reasons, I support this amendment.

I am happy to be a part of bringing this to the floor and working with our leadership on the two committees—on the Energy Committee and on the Environment and Public Works Committee—with Senator INHOFE, Senator JEFFORDS, Senator DOMENICI, and Senator BINGAMAN, and with our leadership in the Senate to get to where we are today.

I hope we can push this bill forward, get a bill through the conference, on the President's desk, and signed into law so that the American people will have what they have needed for some time and what this Congress has failed to deliver—and it is high time we did deliver—and that is a comprehensive energy policy for America's future.

Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Missouri.

Mr. TALENT. Mr. President, I rise briefly to continue the conversation my friend from South Dakota started about the importance of renewable fuels. I thank him for his work on the amendment that is going to be offered that I hope will not only be a bipartisan amendment—I know it is going to be that—I hope it becomes virtually a consensus amendment. It ought to be that for the reasons my friend from South Dakota said. I am going to discuss them for a few minutes myself.

I also join him in congratulating the chairman of the Energy Committee in bringing out a very strong Energy bill, a bill that is designed, in its entirety, to be a pro-energy bill, a proproduction bill, but also a proconservation bill and a pro-environment bill. I believe very strongly that it is not a question of ''energy or conservation or the environment,'' but a question of ''energy and conservation and the environment.'' The American people want all three, and they can have all three. I believe the bill is a long step toward giving them all three.

The renewable fuels standard which is part of the bill, and will be part of an amendment that is offered by the Senator from New Mexico, is an important part of the bill.

We all know that America has been importing more and more oil from foreign countries. In 1999, America was importing over 55 percent of its oil and petroleum products. Just 2 years later, our dependency had increased to over 59 percent. And by the year 2025, the Energy Information Administration estimates that the United States will import nearly 70 percent of its petroleum, unless something is done. And something needs to be done.

We cannot continue in a world where we are fighting a war against terror, in a world where there are many countries that, from time to time, express their dislike for us, to rely on foreigners for our energy. We do not rely on them for our food, and we should not rely on them for basics such as energy.

The good news is that the same people who are producing our food for us, and have given us the safest, highest quality, and most abundant and least-expensive food supply in the world, are well on the way to doing the same thing with regard to energy.

I am pleased to report that renewable fuels are not just the future—although I think they are part of the future—but they are the present. They are now. They are a ''here and now.'' This year, we will use 3.8 billion gallons of ethanol in the Nation's fuel supply. That is about 3 percent of the Nation's fuel supply which is being produced in scores and scores and scores of ethanol plants around this country, many of which are owned and operated by the same farmers who are producing the corn which we then turn into ethanol.

Renewable fuels are here, and we need to make certain they are here 5 years from now and 10 years from now, and in greater and greater supplies so we can protect our national security. That is what the renewable fuels standard is about.

An amendment is going to be offered by the Senator from New Mexico. It is going to be a thoroughly bipartisan amendment. We have worked it out. I thank the Senator from Oklahoma, the chairman of the Environment and Public Works Committee, for working out an arrangement with the Senator from New Mexico to have a consensus amendment as between the two of them. I appreciate the hard work of the Senator from South Dakota. That amendment will reflect the basics of the renewable fuels standard that we put on in committee with very strong bipartisan support.

It will increase, from 4 billion gallons in 2006 to 8 billion gallons in 2012, the amount of biofuels or renewable fuels that are in the Nation's energy supply. That is not just ethanol. It is important to make that clear. It is partly ethanol, and probably will be mostly ethanol, but it will also be biodiesel, which we make from soybeans, and it will be biomass. There are provisions to develop the technology so we can turn sugar into energy. And I would expect, at 8 billion gallons, all those various kinds of renewable fuels will be present in substantial supply in the Nation's fuel supply by the year 2012.

Now, I said it was good for energy independence. I think that is pretty clear. Which one of us would not rather be dependent upon our farmers for their energy than upon, let's say, Saudi oil producers? It seems to me to be pretty self-evident that we can rely more on our own agricultural producers than we can on foreigners. I come from a farm family. I know a lot of farmers. They can get stubborn now and then, but they are not going to embargo us from energy.

The Senator from South Dakota mentioned the oil embargo in the early 1970s. I am glad he is old enough to remember that. I am barely old enough to remember that oil embargo. I do not want my kids and grandkids to go through what I went through as a stripling. And they will not have to, to the extent we are relying on renewables.

It is also a tremendous hedge against rising oil prices. At the current price for oil, $55, $56 a barrel, you can buy a gallon of ethanol for less than you can

buy a gallon of gasoline. So this is exerting now a downward pressure on the price of fuel, and will do so in the future. It is a hedge against increased costs of oil, obviously, because it is an alternative source—you increase the supply and you decrease the price over time. It is important for that reason as well.

It is also important because it is good for the environment. Again, common sense tells us, if we are burning in our engines what we are growing from the ground, that is going to be better for air than burning petrochemicals. And it is. The use of ethanol-blended fuels—and this is the same for biodiesel—reduces greenhouse gas emissions by 12 to 19 percent compared with conventional gasoline. The American Lung Association of Metropolitan Chicago credits ethanol-blended reformulated gasoline with reducing smog-forming emissions by 25 percent since 1990. So again, this is an example not of ''energy or the environment'' but ''energy and the environment.''

It certainly is good for jobs in the United States. I already mentioned there are scores and scores of ethanol plants. We are building biodiesel plants, as well, and building a new biodiesel plant in Missouri. These plants are located, by and large, in the more rural areas. They are good jobs for those communities. The plants are often owned by people who live in the communities.

It is a tremendous hedge against lower farm prices. So people who are concerned about the cost of the farm bill need to understand that this amendment that is going to be offered on the floor of the Senate will save us $1 billion over the next few years from the price of the farm bill because this is an additional market for our commodities and, therefore, it tends to sustain the price of corn and soybeans and the other products that we use to make this kind of energy.

People who want us to use more solar energy, I ask them: Where do you think we get the ethanol and the biodiesel? What is the energy that we use to produce that? It is solar energy. The farmers grow the corn and they grow the sugar and they grow the soybeans and they grow the other biomass. They grow that using solar energy. You grow food by combining sunlight and water, along with pretty good soil. We have a lot of good soil in Missouri. So it is a way of getting solar energy into the energy mix for the country as well.

I could go on and on about the advantages of this kind of fuel. I think it is pretty self-evident. We can have it and have it without any kind of significant market distortions. I believe this renewable fuels standard that we are offering today is something that the market would probably reach on its own. But what it does is offer an assured market for this kind of product so that the investment in these plants and the investment in the distribution network that we need to get this energy out to people will continue. And it is going to continue.

I started off by saying that renewable fuels are the future. But they are also the present. And that is true. There are hundreds and hundreds of stations around the country that are already pumping an ethanol blend. Those within the sound of my voice may be using ethanol now almost without knowing it because you can use a blend of up to about 50 percent ethanol in gasoline without even changing the existing engines. And there are millions of cars that have been purchased that can use up to 85 percent ethanol. We just do not have enough stations pumping that now, but that is coming as well for the future.

It is here and now. It is good for the environment, it is good for creating jobs, it will hold down the price of oil and gasoline, and it will help protect us and our national security and our energy supply against foreign oil embargoes.

I congratulate everybody involved with this amendment. I am glad we were able to save the 8-billion-gallon standard that we put on in committee. I appreciate very much the work of the chairman and ranking members of both committees. People look at what we do here and they often see the conflict or the partisanship or sometimes the personalities. We have all those things. But there is a whole lot that goes on on the Senate floor that involves people working together. Disagreements that may exist are honest disagreements. They are honestly debated, and then we vote on them.

The renewable fuels standard is an outstanding example of that. It was offered 2 years ago at a lower level in an amendment offered by the majority leader and the Democratic leader jointly. I can't think of anything else we did in the last Congress like that. It got almost two-thirds of the vote. I believe this amendment will get a similar vote in the Senate today. I am pleased to have been a part of it. Now we need to pass the amendment, then go into conference, and hold this renewable fuels standard for the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I congratulate Senator TALENT for his excellent work in the Committee on Energy and Natural Resources. He was the leader of a group that put together the new 8 billion barrels that we are going to have as our new American goal for ethanol. That was not easy to put together. It got a very large vote in committee. That momentum brought it here. I think he is to be congratulated for his effort.

I appreciate Senator CRAIG's managing the bill for me. I would like to say to the Senate, there are two or three amendments that people want to offer to this bill. I wish they would bring them to the floor. We are prepared now, from what I understand, to debate amendments. I understand Senator BOXER has one. Maybe Senator FEINSTEIN has one. There may be one other. If we could get them up, we are going to be here for a while tonight. Even though we are leaving early, we could get those debated and voted on, and then the next thing that we would do would be to take up the amendment the distinguished minority leader chooses to bring up. We hope that can come up tomorrow morning before Senators leave for the Exon funeral, which means we might get the amendment for Senator CANTWELL offered that the minority leader wants to have brought up, get that up tomorrow before we leave. That would get two very major issues behind us, plus the amendments on this bill.

Again, if Senators have amendments on the ethanol provision, bring them down so we can debate them. I ask the minority leader in short order if he would help me try to get that accomplished.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, let me speak to the underlying bill and the provision in the amendment that is before us now before yielding the floor. The senior Senator from Florida is here to discuss the issue of offshore drilling and a very important part of our overall energy considerations.

First and foremost, the chairman has called our colleagues forward to the floor on ethanol amendments. That is the provision that is on the floor now. I thank the junior Senator from South Dakota for his thoughts and laying out a comprehensive explanation as to the importance of renewable fuels to our country as we strive toward a greater sense of self-reliance. Self-reliance is security. Self-reliance is national security. The ability to determine for ourselves our own energy destiny is critically important, whether it is today or tomorrow or for our children's future. To know that there is going to be an abundance of energy of all types, both for transportation purposes, electrical generating purposes—all of that is critical. Finally, that is why we are here on the floor of the Senate with this critical legislation.

Whatever we call this legislation—a few moments ago I called it America's Clean Energy Act—the reality is that it has taken us decades to begin to understand that the supply we had is not what we now have; that as our country grew and we failed to meet those growth levels with additional energy sources, we became increasingly reliant on other nations for our energy, and energy prices began to go up.

We as a country, in the last decade, have had to make some critical choices about our future and our job markets based on a supply of energy. Could we afford to produce it in this country, creating jobs here, or were those who invested in those kinds of jobs going to look somewhere else in the world to

create that new production plant for the purposes of supplying our consumer needs? All of those became a necessary and important part of a decisionmaking process in America's business because America's Government was increasingly standing in the way of our ability to produce.

And Congress—and I was a part of it—for the last decade consistently looked at these issues but failed to come to the necessary agreements to produce a comprehensive policy that put us back into the business of exploring for hydrocarbons on public lands, enhanced our ability to produce renewable sources, caused us to look at nuclear as an important part of our overall electrical blend, and allowed those plants to be built, and so on and so forth.

Finally, as a result of extremely high gas prices, as a result of blackouts, as a result of catastrophic meltdowns in energy markets, and a lot of fingerpointing—and some of it justified—we find ourselves on the floor of the Senate today debating what most can call a strongly provided-for bipartisan national energy policy. It begins this country's effort to march again toward self-reliance. It causes us to look at a variety of options, of alternatives, to recognize that it isn't just one source of energy that will fuel the future, it is multiple sources; that it is a balanced portfolio that is going to be critically necessary to assure, whether it is transportation needs and it is hydrocarbons or it is hydrogen or a combination of all of those, and electrical power certainly for our base loads—and those are electrical loads that don't just for a moment light your house but for a long period fuel your production facilities and plants—that we are going to have to have those kinds of generating capacities that ultimately produce that type of energy.

Natural gas is a critical hydrocarbon fuel, a cleaner hydrocarbon fuel than any available today. It was once thought to be the ideal fuel for drying and space heat, but under the Clean Air Act we didn't have clean coal technologies, and we wouldn't build nuclear. So we began to say: Gee, we can run this through turbines and provide electrical power. And we began to do so, at a time when we weren't bringing new gas to the market.

Over the decade of the 1990s, as electrical companies were trying to meet the demand of their consumer ratepaying base, they built gas turbine electrical generators. Gas went from $2 a gallon until early this spring to over $7 a gallon—excuse me, $7 per thousand cubic feet. We are not talking gas at the pump; we are talking gas in the pipe, and we are talking thousands of cubic feet. Now it is, as of today, $6.66. And those marvelous gas turbines we built have been turned off because their cost of operation, feeding power into the national power grid, is simply too expensive. We should not have gone there in the first place, but the absence of good, well-thought-out national energy policy for this country caused, in large part, that to happen.

Now we are scrambling as a country to find new gas sources. We have just recognized and facilitated the building of a national gas pipeline out of Alaska to feed the lower 48. We are trying to look at how we bring gas ashore in the form of liquefied types, and all of that in blend, but recognizing that we desperately need it. We now recognize it and are moving in that direction.

Coal powers over 50 percent of our generation today. And we have, as many have stated, hundreds of years of supply. But it is not as clean as we would like it. This particular piece of legislation incentivizes cleaner coal technology and the gasification of coal in the generation of power. All of it is moving in the right direction.

You just heard a robust discussion about renewables. It is not just ethanol that renews. I believe hydropower renews—that little flow of water through the pin stock that turns the turbine, that turns the lights on in the Pacific Northwest. Nearly 75 percent of all of the lights in the Pacific Northwest are generated by hydropower. Yet over the last good number of years, we have been very frustrated because almost all of these dams on rivers that produce hydropower are federally licensed. In 1986, we created legislation that began to bog down the licensing process, or make it so complicated that in a few instances, as the licenses were attempted to be renewed, they simply were not. We have had a few dams torn down, which were no longer viable under certain scenarios. We have said we are going to change that and create a better process, and we are. It is in this legislation and it is important because, over the course of the next good number of years in the States of California, Washington, Oregon, Idaho, and Montana, over 92 hydro facilities need to be relicensed. We want them to be efficient and environmentally sound, but they are an important part of the overall electrical base load of this country.

Well, there are a good many issues that I will talk about over the course of the next several days as we debate this critical piece of legislation. I am going to spend some time with alternative sources and a good deal of time with nuclear. Why? Because the world has awakened to the fact. As the Senator from Tennessee so clearly said, in this country nearly 70 percent of our electrical base that is carbon free, nonemitting, is generated by nuclear power. It is the only true clean source today of energy, outside of hydro, and we all recognize we are probably not going to be damming up a lot more rivers in our country to produce hydropower to meet that base load.

Every major utility in this country that has a responsibility to the consuming public to turn on the lights in the home and fuel the production plants of the facilities of our country is looking forward for 10 years now and saying: How do we build a base for 10 years out? It takes that long in the construction process. All of them recognize there is largely only one source with which you do that, and that is nuclear. We recognize it in this bill. I do believe our Nation and the world are in what some could call, and what I hope is a nuclear renaissance, a recognition of this very clean and very safe source of energy. This legislation recognizes it and begins to facilitate it in ways that we have not done in the past. There seems to be a growing general acceptance to the recognition of the importance of nuclear in our national energy base and the role it plays.

A good deal more can be said about a very bipartisan piece of legislation. I thank Senator PETE DOMENICI and Senator BINGAMAN. Both have worked as chairman and ranking member of the Energy Committee, on which I am a senior member, to craft and create balance in this legislation. There are going to be a good many amendments. Some will fail, some will not. But they are a general expression of a concern, I do believe, and a recognition of the very important nature of this piece of legislation that can become public policy and put this country back into the business of producing energy. We are no longer able to afford the selectivity that some have argued for some time—a little bit of this but none of that; some of this but never go there—in the general debate about energy.

Largely, the American consuming public today is saying: Congress, get your act together. Five years of debate is long enough. Get this country back into the business of producing energy—all forms, all types, an abundant market basketful of it. Keep it clean, explore new technologies, provide for conservation. But in the end, Congress, get it together and get it to the President's desk.

I believe this bill embodies that philosophy. It was clearly recognized in the Energy and Natural Resources Committee, on which I serve. I hope that over the course of the next several weeks, as we work ourselves through the amendment process, we will have a bill, that we can work out our differences with the House in conference, and see it on the President's desk and be able to very proudly and responsibly say to the American consumer: We have heard you. We recognize the needs of this country, and we are creating public policy to put this country back into the business of self-reliance for national security purposes, for future economic purposes, but most importantly, a clear recognition that we must, as a country, stand on our own two feet in the business of producing energy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, we have been discussing this Energy bill. At 10 o'clock this morning, I

had discussions with the chairman of the committee and the ranking member. They were trying to work out some language to solve the problem with regard to drilling off the coast of Florida, and it is 6½ hours later, and I still don't see any of that language. So I was going to go on and continue to explain the background on this amendment, unless the chairman of the committee had something he wanted to share. I will yield to him without giving up my right to the floor.

Mr. DOMENICI. Mr. President, I appreciate the Senator's attitude and his willingness to cooperate. I remind the Senator, in all graciousness, that we are going to be on this bill for about 2 weeks. So nothing is going to happen. We have our own initiative, and we have prepared something. There is a Senator who wants to see it from my standpoint before we submit it. It is en route to her now—Senator LANDRIEU. She has been working in our committee. She is looking at what I suggest. It is what I have in mind. We should be ready soon.

I thank the Senator for inquiring, and I hope he will let us take up an amendment on ethanol. It will not take very long, and we will be back to the Senator very soon.

Mr. NELSON of Florida. Mr. President, I am glad the Senator clarified that. I think it is curious why, since this Senator made the initial request and did so last Thursday when I told the chairman of the committee I would not object to the motion to proceed, and did so yesterday in my conversation with the Senator on the telephone, and I did so in a personal conversation with Senator BINGAMAN. Again, at 10 o'clock this morning, I renewed both of those requests. I think it is curious that language is being shared with other Senators and not with this Senator. It is 6½ hours after we had these conversations on the floor.

So one starts to wonder, is someone traipsing around trying to avoid showing this Senator from Florida the language which was going to be agreed to by all of us? So it is my intention—if we are not going to have the sharing of this information with this Senator, then this Senator clearly wants to continue explaining the emergency nature for the 18 million people of Florida.

So I would just continue to do that. I wish to show again what—

Mr. DOMENICI. Senator, could I say to you, please let us proceed. The reason I am showing it to a Senator is to try to make sure you get something quicker rather than later. It is not an effort to avoid you. We are not just discussing Florida. We greatly respect you, but some other Senator would like to look at this, which would make it easier for you.

I can make a deal with you, Senator, and I have to show it to some other Senator. I am trying to show it to one who I know wants to see it. Now, we cannot just drop everything. I very much am sorry about that. I am going to do my best, but if you would like to talk tonight, we will all leave and you can talk tonight. If you would like us to get a little bit of work done, please relax. We know you are going to win. Nothing is going to happen to Florida. How many more times do you want us to say it? We are hiding nothing from you. We have some other work to do. You are terrific. You are a great advocate. You are going to win for Florida. You have got the most terrific Senator. Please understand you are going to win.

Senator MARTINEZ, you are going to win. You do not have to come down here every minute. You are going to succeed. Floridians, do not worry. This bill will be here 2 more weeks. It cannot pass without you two. So would you give us a little leeway? I just beg you.

Now having said that, I ask the Senator from California to offer an amendment that is relevant.

Mr. NELSON of Florida. Mr. President, I believe the Senator from Florida has the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. The Senator from New Mexico has the floor. I did not ask him to give me the floor. I got the floor.

Mr. NELSON of Florida. The Senator from Florida has the floor.

The PRESIDING OFFICER. The Senator from Florida obtained consent that he might yield while retaining his right to the floor.

Mr. DOMENICI. I do not care if I have the floor or not. You can have the floor.

Mr. NELSON of Florida. I thank the Senator, and I thank the distinguished chairman.

I take the distinguished chairman at his word, but this Senator cannot evaluate any language unless he sees it. For some reason, it is being shared with everyone in the Senate except this Senator from Florida. So the Senator from Florida is going to proceed with the explanation of why this is so critical to 18 million Floridians.

Mr. DOMENICI. Senator, I want to tell you one more time, I cannot share—Mr. President, I ask if he would yield for a moment without losing his right to the floor.

The PRESIDING OFFICER. Will the Senator yield?

Mr. NELSON of Florida. Without losing the floor, yes, I yield.

Mr. DOMENICI. There are 100 Senators. I am not trying to do anything but get the Senator a proposal as soon as humanly possible. Now, if you choose to delay us further, we are going to get nothing done tonight. I want you to know that accomplishes nothing. If you think it accomplishes something, just go right ahead. I would say you can have the floor back—I will ask consent that you can have it—as soon as the Boxer amendment is disposed of. Would you let us take it up, and then you can have the floor back? In the meantime, we are trying to get your language—not your language, the language so we can share with those Senators who have the concern that you have. If you let us do that, we will proceed in that manner. We have done everything bipartisan on this bill. There is no intention otherwise. I ask you one more time if you would do that, Senator. I would appreciate it.

Mr. NELSON of Florida. The Senator from Florida will yield the floor when I see a good-faith effort of sharing the language. The Senator from Florida has been waiting for 6½ hours. I have made innumerable requests to the Senator's staff, both majority and minority. It has not been provided to me. The Senator from Florida is going to continue to talk until it is.

Mr. DOMENICI. Senator, would you yield?

Mr. NELSON of Florida. I would yield without losing the floor.

Mr. DOMENICI. Senator, you can talk all night. There will be no language for you tonight.

I yield the floor.

Mr. NELSON of Florida. Mr. President, this is what we have in Florida, and it is one of the things we are trying to protect.

This is one of the things that could result.

There is a $50 billion-a-year tourism industry. This, we cannot withstand.

This is what we want to protect—some of the most pristine waters, some of the most pristine beaches.

That is what can happen to our tourism industry. That is not what we want.

As has been stated before by the Senator who is the Presiding Officer and this Senator, we also have a military conflict. Drilling for oil in the eastern gulf is incompatible with weapons testing and combat training.

We have a statement that has been made by the Secretary of Defense. Secretary of Defense Rumsfeld stated to the Senate Armed Services Committee:

> Encroachment is a problem that is real, it is serious. The United States needs bases, it needs ranges, it needs test ranges. And it cannot provide the training and testing that people need before they go into battle unless those kinds of facilities are available.

To further quote:

> Each year that goes by, there are greater and greater pressures on them.

This was testimony by the Secretary of Defense to the Senate Armed Services Committee. It is, in fact, the case. This is where major military training occurs. It is in the Gulf of Mexico off the eastern seaboard, just with regard to our State. There are other places in the country. One can see all of this eastern area of the Gulf of Mexico is, in fact, restricted airspace for military aircraft training. This has taken on an increased importance since the Navy Atlantic Fleet training that used to occur down in the little island of Vieques off of the big island of Puerto Rico—at the request of the Puerto Rican Government, the Navy shut that

down, and a lot of that training has come here. A lot of that training is occurring out of these military bases. Plus, the aircraft carriers come into the Atlantic region for training as well as they come into the gulf and do training with other surface warfare ships, coordinated with U.S. aircraft.

It is this Senator's contention, and has been stated likewise by my colleague from Florida, Senator MARTINEZ, that it is an incompatible activity to have oil and gas rigs on the surface of the Gulf of Mexico underneath where all of this military training is occurring. That has been recognized all the more in plans by the Department of Defense.

Whereas, the student pilot training is now being concentrated at Pensacola Naval Air Station and at Whiting Field, northeast of Pensacola, north of Milton, the training for the Joint Strike Fighter, which will be used by all branches of the military, that F–35, they will train those pilots at Eglin Air Force Base, near Fort Walton Beach. The new stealth fighter, the F–22, will have its pilots being trained out of Tyndall Air Force Base, near Panama City.

Why are those three major training commands—one Air Force, one a joint military fighter, and then student pilots, where they train not only Navy but Coast Guard, as well as Air Force—why is that in that location?

It is because of this national asset that we have, which is called restricted airspace, which has become so much more important now that the Navy is denied training down in the Caribbean and that training, in large part, is being done right there.

So is it any wonder, then, that drilling for oil in the eastern Gulf of Mexico is incompatible with weapon testing and combat training? It is.

I would not have to underscore, very much, the delicacy of Florida's environment to tell you about the extraordinary sensitivity of the mangroves, the sensitivity of the estuaries, the bays where the rivers flow. Here in the State of Florida, down in this portion, Ten Thousand Islands—they are all mangrove islands. They border the Everglades.

Up in this section of Florida, the Big Bend—again, no sand beaches because it is a part of our ecology that is so delicately balanced, where all of the water life comes in and reproduces in those shallow waters. It is a place where one of Florida's major rivers, the Suwannee River, dumps into the Gulf of Mexico.

Likewise, up here near Apalachicola, a place where the major river of Florida, the Apalachicola River, comes in and dumps into Apalachicola Bay, is a place where it produces extraordinary, world-famous Apalachicolan oysters because of the unique environment and brackish water that allows these delicacies of oysters to be able to grow and then be harvested.

In fact, there is a reason why this part of the gulf you see does not have any drilling in it, when, in fact, an imaginary line, directly down from the Florida-Alabama line, everything to the west of there is where you see the drilling. One of the first reasons for that is that, in fact, that is where the oil and the gas is. That is where the mother load of oil has been and is being drilled. You can see the color here on this map. Less so off of Texas; very much so off of Louisiana; likewise off of Mississippi; and likewise off of Alabama. It was this 1.5 billion acres, in what was a part of Lease Sale 181, that was agreed to by the Governor of Florida, back in 2001, that it would not cross the longitude line that separates the border of Alabama and Florida.

Mr. REID. Will the Senator yield for a question?

Mr. NELSON of Florida. The Senator will be glad to yield to my leader, without losing my right to the floor.

Mr. REID. I ask the Senator to yield so the Senator from California can offer an amendment. She will speak for up to 20 minutes. In the meantime, Senator DOMENICI has a piece of paper you are probably interested in, and that would probably move this thing along rather quickly.

Mr. NELSON of Florida. Is it my understanding you are saying there is some language at which the Senator would be able to look?

Mr. DOMENICI. Yes, there is some language I have to give you to look at.

Mr. REID. I ask unanimous consent Senator BOXER be allowed to offer her second-degree amendment to the legislation.

The PRESIDING OFFICER. There is objection?

Mr. NELSON of Florida. Without losing my right to the floor. I thank the leader. It is merely what I had asked. I have been waiting for 6 hours and 45 minutes from when this request was initially made and was not provided any language. I thank the distinguished Senator from Nevada.

Mr. REID. Let me say, through the Chair to my friend from Florida, the Senator from New Mexico has worked very hard on this bill. Both Senators from New Mexico worked very hard. This is an issue that is difficult for reasons it probably should not be, but it is a difficult issue. I know the Senator from New Mexico has done everything he can.

I appreciate everyone's cooperation. This is an important bill to Republicans and to Democrats. One reason I feel some anxiety is there is an event downtown tonight that is going to cause us to have a short night. Unfortunately, when people die, it is always at a bad time. Senator Exon's funeral is tomorrow. It will make us have an afternoon without any votes. And we have a longstanding Senate retreat this Friday. So we need to get as much done as we can.

I appreciate everyone's cooperation, especially the two managers of the bill and Senators MARTINEZ and NELSON and LANDRIEU, for helping us work through this.

I ask my unanimous consent request be adopted.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. Since the Senator from Florida still has the floor, I thank Senator REID for working this out. I acknowledge that the chairman of the committee has had enormous pressure. But as the Senate Rules provide, each Senator has an opportunity to stand up and fight for the interests of his or her State. That is what this Senator, as well as my colleague, intend to do.

I agree to the Senator's request, and I yield the floor.

Mr. DORGAN. Reserving the right to object, Mr. President, in order that we might reach a conclusion, my understanding is that Senator BOXER will offer the amendment, speak for 10 or 15 minutes or whatever she speaks. I ask unanimous consent to speak for 4 minutes in opposition to her amendment following that. Then, my guess is, it will be disposed of.

Mr. DOMENICI. Senator INHOFE will desire to speak. Let's put it all together, and then we can finish.

Mr. INHOFE. If the Senator will allow me to speak for 4 or 5 minutes after he speaks?

Mr. DOMENICI. And then we will vote on or in relation to it.

Mrs. BOXER. I want to make sure, since it is my amendment—I don't want to lose total control of this. I would like to get to close after I have heard the opposition. I would love to have 2 minutes to rebut. If I could have 15 minutes to speak in favor of the amendment, have my colleagues lay out the argument against it, and if I could have 4 minutes to wind up, that will be good for me.

Mr. DOMENICI. Do we understand the unanimous consent request? After all of that has happened, the Senator from New Mexico would be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Before the Senator proceeds—but you have the floor—could you yield to me for 1 minute?

Mrs. BOXER. Yes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I want to say the distinguished Senator from Florida, who has been speaking, submitted a proposal quite a few hours ago, an idea, a thought piece. I want everybody to know that was not acceptable not only to the Senator from New Mexico, it was not acceptable to Democratic Senators on his side of the aisle. So we have not tried to hide anything.

I regret the Senator has even implied that we tried to do that. It is not right. We have been working as hard as we can. It is not much to take 4 or 5 hours. Sometimes around here you have to take a dictionary when you are working on something because people do not understand words. That is how hard it has been in the past.

Having said that, I yield the floor, and I will give the Senator this statement. I hope he understands—the senior Senator and the junior Senator—I would like both of you to read it. I don't think it is anything fabulous, but I hope the Senators will feast their eyes on it.

Mr. REID. Do we have consent on the vote?

The PRESIDING OFFICER. Consent has been granted for the Senator to offer her amendment, and a series of Senators will be recognized for a set amount of time in the said order. Then the Senator from New Mexico will be recognized.

Mr. REID. It is my understanding there will be a vote after that on or in relation to the amendment.

Mr. DOMENICI. The Senator is correct.

The PRESIDING OFFICER. Is that part of the request?

Mr. REID. That was Senator DOMENICI's request.

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

The Senator from California is recognized.

Mrs. BOXER. My understanding, after that, I have 15 minutes at this point; is that correct?

The PRESIDING OFFICER. Once the amendment has been sent up, yes.

AMENDMENT NO. 781 TO AMENDMENT NO. 779

Mrs. BOXER. Mr. President, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 781 to amendment No. 779.

(Purpose: To ensure that ethanol is treated like all other motor vehicle fuels and that taxpayers and local governments do not have to pay for environmental damage caused by ethanol)

Beginning on page 20, strike line 25 and all that follows through page 22 line 3.

Mrs. BOXER. As you can tell from the clerk's reading, it is a very straightforward amendment. What I am offering in this amendment is to recommend to my colleagues we strike out the liability waiver granted to the makers of ethanol.

The purpose is stated very clearly in the beginning. It says: To ensure that ethanol is treated like all other motor vehicle fuels and that taxpayers and local governments do not have to pay for environmental damage caused by ethanol.

The amendment before the Senate, to which I have authored this second-degree amendment, brings, once again, to the Senate an ethanol mandate. Some think mandates of ethanol are a good idea. Others think it is a bad idea. I hope we all agree taxpayers and local communities should not have to pay to clean up any mess caused by ethanol.

The point of the bill is to force States—whether they want to or not, frankly—to utilize more and more ethanol, not as a crowning blow to the States that did not want to do this, by virtue of the fact there is a safe harbor for ethanol, meaning that no liability can be found for the makers of ethanol, but we are saying to cities, States, and communities, even if you do not want to use it, A, you are forced to use it; and, B, if there is a problem, we, the ethanol makers, will not be there to help you. It will fall to the local communities to pick up the tab.

A lot of people say ethanol is totally safe. I ask a commonsense question to the people of the United States of America who are going to have to make sure they are pumping their cars with ethanol in greater and greater proportion: If it is so safe, why are the companies seeking a liability exemption?

I have been around enough years to know if somebody says, Step right up, step right up, try this product; this product is completely safe; it can bring no harm to you; it is perfect, never a problem; but, by the way, before you ingest it or use it, sign a form that says you won't hold us responsible if you choke or you get cancer or you die. If somebody does that to you, I will say as the daughter of a lawyer, the wife of a lawyer, and the mom of a lawyer, do not sign away your rights. Do not sign away your rights. A light bulb should go on: What is wrong with this picture? If this product is so safe, why should I sign this liability waiver?

That is what is happening in this bill. We have had a vote on this before, and we have gotten anywhere from between 38 and 42 votes. It is important to go on the record again.

Why do I say that? We have had a terrible problem with MTBE where, thank goodness, there was no safe harbor. Communities such as Santa Monica and Lake Tahoe, communities in New Hampshire, and all across this country have been able to go back and hold the companies accountable for MTBE. The courts have said yes, communities, you have a right to hold these companies accountable for the damage done by MTBE.

Now we have a new mandate—ethanol. My colleagues who love ethanol, who want ethanol, who dream of ethanol morning, noon, and night—and this is not a partisan issue; it cuts across party lines—are giving the makers of ethanol a pass. This is a special interest loophole.

The exemption language starts off with this: ''Notwithstanding any other provision of Federal or State law''—and then they talk about the waiver. When you see that in the bill, put up your antenna. It raises red flags. You know then the public is losing rights.

''Notwithstanding any other provision of Federal or State law''—and then they do harm and put the waiver in there. It goes on to say that renewable fuels—that is ethanol—cannot be found to be defectively designed or manufactured.

This is the Senate of the United States of America. I did not know we were expert scientists and doctors who deal with environmental damage. We are saying renewable fuels—ethanol—cannot be found to be defectively designed or manufactured. Compliance with laws and regulations is not necessary to getting the liability waiver except for limited compliance requirements under the Clean Air Act.

My colleagues are going to say—I am sure the Senators from North Dakota, from Oklahoma—Senator BOXER is wrong. This is a narrow waiver.

Not true. The special interests and the people who represent ethanol will say the waiver is not really broad. It only protects these makers of ethanol from one type of lawsuit.

But let me state the type of lawsuit they are protected against. It is the only lawsuit that has standing in the courts of the United States of America. How do we know this? Look at MTBE. Lake Tahoe won their MTBE suit. Why? Because they were able to use the defective product liability claim. The judge, as a matter of fact, threw out the negligence claim, the nuisance claim.

So when my colleagues get up here and say, Senator BOXER is exaggerating, we are not throwing out the ability of people to sue—yes, we are because the only pathway for the public, for our cities, for our counties, for our States to hold people accountable for a defective product is the defective product cause of action. Losing that right to bring defective product liability lets the polluters off the hook entirely.

Again, I will talk about a San Francisco jury in a landmark case decided in April of 2002. The jury found that based on the theory that MTBE is a defective product, several major oil companies are legally responsible for the environmental harm to Lake Tahoe's groundwater. The jury also found many of these major oil companies acted with malice because they were aware of the dangers but withheld information. We did not have this safe harbor provision when MTBE was, essentially, mandated. Therefore, my communities in California and communities across the country are able to recover the damages.

Not so with ethanol. The makers of ethanol have made sure they are going to be covered and protected. It is an embarrassment we would do this. This is the place we are supposed to protect the public interest. This is the place we are supposed to protect our people from defective products, not put in language that waives all the ability of people to sue on a defective product claim.

It is a scary thought if this were in place for MTBE—by the way, there is still a move to do that on MTBE, which is another issue for another day. It is a scary thought if we had done this for MTBE. My people in Lake Tahoe, the good people there, could be left holding the bag, and your towns and cities could be left holding the bag. If ethanol

harms public health or the environment, the loophole in the Energy bill risks leaving our communities with a mess. Polluters, not taxpayers or victims of pollution, should pay for harm to public health and the environment.

When gasoline leaks today, there is no loophole. The polluter pays. Why should the oil companies and the ethanol producers get off the hook if they cause harm? They should not.

So again, you are going to hear a lot of doubletalk when people stand up. They are going to first say ethanol is safe, there is no problem. And I say you say to them: If ethanol is so safe and you feel so comfortable with it, why do you need a liability waiver for the makers of ethanol? And then they are going to say: Oh, don't worry, we are only saying you can't sue because of a defective product. That is all. You can still sue for nuisance, negligence, all the other things, when, in fact, we know from legal history that the only claim that has standing here is a defective product lawsuit.

Now, to talk about ethanol's safety—Mr. President, I ask, how many minutes do I have of my 15, please?

The PRESIDING OFFICER. There is 4 minutes 45 seconds remaining.

Mrs. BOXER. Thank you, Mr. President.

According to EPA's Blue Ribbon Panel on Oxygenates in gasoline, which include ethanol and MTBE, ethanol is extremely soluble in water and should spread if leaked into the environment at the same rate as MTBE. It may spread plumes of benzene, toluene, ethyl benzene, and xylene because ethanol may inhibit the breakdown of these toxic materials. Although ethanol contributes some clean air benefits, it also increases the formation of nitrogen oxides, which lead to increases in smog.

So I think if you listen to the experts and you forget the special interests, you will support my amendment. We need to ask ourselves, are we in the business of letting people off the hook, people who have a responsibility for what they are putting into our gasoline, into our air, into the ground?

We mandated airbags, and we did not say to those manufacturers that they should not be liable. If there is a defective product problem with an airbag, people can hold the companies responsible if it does not work or it harms them. Why would we give a free pass to ethanol? There is only one answer: special interests, powerful, powerful special interests. There is no other answer that you can come up with.

If we do not learn from our mistakes, we are doomed to repeat the mistakes of the past.

My amendment will eliminate the special interest liability exemption for ethanol in this amendment. It means that ethanol will not be treated any better or any worse than other fuels. It will mean ethanol will be treated the same way as any other fuel. We should not shift the burden of cleaning up any problems caused by ethanol to our communities. The polluters should pay. The safe harbor liability exemption for ethanol should be taken out of this amendment.

I have to say to my friends, I know how anxious you are to have ethanol. I know it means a lot to the corn producers, and, frankly, it means a lot to my agricultural people. I have some good language in this bill dealing with ethanol made from other materials. But I still believe that my people who will produce this ethanol should not be left off the hook if there is a serious problem to the health of the people of the United States of America.

So the amendment is simple. I hope we can have a good vote, a solid vote on this amendment.

I yield the floor with the understanding that I will close the debate. Thank you very much, Mr. President.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise to oppose the amendment by my colleague from California. I regret that we are on different sides on this issue, but this amendment is unnecessary. It addresses a problem that does not exist, in my judgment. And my guess is, the Senate will, as it has in the past, vote to oppose this amendment. But I do wish to make a couple of comments about the issue of ethanol more generally.

I was listening to my colleague, and I was thinking about energy and thinking about that old country western song that was titled ''When Gas Was 30 Cents a Gallon, Love Was 60 Cents Away.'' We are a long way from 30-cent-a-gallon gas, and I don't expect we will ever see 30-cent-a-gallon gas any longer.

Sixty percent of the oil we use in this country comes from off our shores, much of it from very troubled parts of the world—Saudi Arabia, Kuwait, Iraq, Venezuela, and more. It is estimated that it is going to grow to 69 percent in a relatively short period of time. We are hopelessly addicted to foreign oil, much to the detriment of this country.

The use of ethanol is not going to solve that, but it moves us in the right direction in addressing it. Ethanol is a simple proposition—it is being able to grow our energy in our farm fields. Think of it: Take a kernel of corn, extract a drop of alcohol from the kernel of corn, and still have the protein feedstock left to feed the cows.

This is about growing our energy. It is about making us less dependent on the Saudis and the Kuwaitis and the Iraqis. I have indicated we have this huge addiction to foreign sources of oil.

Now, I did not know too much about ethanol before I came to the Senate. I have learned a lot about it since and have been involved in trying to make certain that we support ethanol production. But I learned enough about it from a full-page ad that I read by a major oil company one day in a daily newspaper. This major oil company had spent enough money to take out a big old advertisement saying how bad ethanol was for America. I looked at that and I thought: Well, now, if this big oil company thinks it is bad, maybe I ought to take a good, hard look at it because I figure it is probably good for this country.

You see, they do not want competition. They have been trashing ethanol for a long time. But the fact is, we are not only addicted to foreign oil, we have this enormous growth in the size of energy companies through mergers and acquisitions, and so now there are just a few companies left. And between OPEC and the few larger energy companies these days, I do not have any great confidence that there is not market manipulation going on. However, I don't know, but I saw what happened in California with electricity because they could, because that kind of market power allowed them to do that.

So I am very interested in trying to see if we can diversify the production of fuel. This capability, through ethanol, gives farmers a new market, allows us to grow fuel in our farm fields and rely on less of it from under the sands of Saudi Arabia and Kuwait and Iraq, for example. It is a winner all the way around, in my judgment.

This 8-billion-gallon requirement that we have in this bill is carefully constructed. It moves this country in a very important direction. It will reduce crude oil imports by 2 billion barrels. Think of that—a 2-billion-barrel reduction in crude oil imports. It will reduce the outflow of dollars largely to foreign oil producers by $64 billion. It will create about 240,000 new jobs, it has been estimated. It will increase U.S. household income by $43 billion.

The fact is, this makes sense for everybody. And so I stand here to support ethanol, as I have on many occasions in the past. I was able to be here earlier today to give an opening speech on energy and touched on it. But my hope is we will turn back the Boxer amendment and strongly support the ethanol provisions in this bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say that I agree with my friend from North Dakota, although I do not agree with him on the whole idea of the mandated ethanol. We have talked about that. We had that debate. That is already behind us now, and this is where we are.

I would suggest that many years ago, when I was in the State legislature, my first trip to Washington was to protest Ladybird Johnson's Highway Beautification Act of 1965. So I do not like mandates to start with, but what I don't like more than the mandates is the fact that you mandate something and then open them up to exposure and expose them to lawsuits. We drafted in my committee this very narrow safe harbor provision which is included in

the underlying amendment. It was a product of very careful deliberation. It was a compromise. It was a piece of the overall package.

The amendment requires the use of a set and increasing amount of renewable fuels. Because the Government requires the use of a particular additive, the Government should not allow compliance with that requirement to be the basis of a lawsuit. That is just common sense.

I have a great deal of respect for my colleague from California, but when she talks about the powerful interests we are protecting, is a farmer from Gage, OK, or from Woodward, OK, a powerful special interest group? No, he is not. He is someone who has a law. There is a law out there. He is complying with the law. He says: I guess I will have to go ahead and supply the corn for ethanol. Then he finds out, down the road, he is being named in a lawsuit. We know this happens. It may not be the intent of the law, but it is the effect of the law. That is what happens.

On April 22, trial lawyers in the City of Merced v. Chevron have already filed an MTBE-style case attacking ethanol. The plaintiff's drafting in their lawsuit is purposely different and includes the term ''other oxygenates and ethers.'' This careful inclusion necessarily includes ethanol because the only other ''oxygenate'' per se is ethanol.

Any of those trying to use the argument that if you do this, this somehow affects MTBE and would reduce their responsibility, it does not affect them. The renewable fuels safe harbor does not relate to MTBE. The text of the renewables liability provision is clear. Only renewable fuels, as defined elsewhere in the amendment, can qualify for the safe harbor. MTBE is not within the renewables definition.

I would hope, as people cast their vote, they would keep in mind there is one great issue, and that is a fairness. For Government to come along and mandate something is bad enough. But for Government to come along and mandate something and then say there is no protection for complying with the law, that is not right. It is a fairness issue. I believe we should defeat the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. INHOFE. Reserving the right to object——

Mrs. BOXER. I am not asking unanimous consent. I am asking for the yeas and nays.

The PRESIDING OFFICER. The request is not subject to an objection.

Is there a sufficient second?

At this time, there is not.

The Senator from California is recognized.

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

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

Does the Senator withhold the quorum call request?

Mr. INHOFE. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. NELSON of Florida. I object.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER. Is there objection?

Mr. NELSON of Florida. I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue the call of the roll.

The assistant legislative clerk continued with the call of the roll.

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

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

Mr. DOMENICI. Parliamentary inquiry: What is the status of the bill now?

The PRESIDING OFFICER. There are 2 minutes remaining to the Senator from California on her amendment.

Mr. DOMENICI. I thank the Chair.

Mrs. BOXER. Mr. President, I won't take the 4 minutes, but I had asked for 4 in the unanimous consent request.

The PRESIDING OFFICER. The time of the quorum call was charged against the Senator.

Mrs. BOXER. Mr. President, I am glad we are going to vote on my amendment. I understand that Senator DOMENICI will move to table. That is fine with me, as long as we have a vote.

Again, this is a very interesting issue in terms of what our responsibility is. As Members of the Senate, we have a responsibility to protect the health and safety of the people of our country. Why on Earth would we give a waiver of liability to the makers of ethanol when, in fact, we are not sure what is going to happen with heavy use of ethanol? We are not sure whether it is going to cause a problem for our people and who is going to have to pay to clean up the mess.

We know what happened with MTBE. We know it was in communities such as Lake Tahoe, Santa Monica, and communities in the Northeast and all across the country. I remember I had a map that showed where MTBE was a problem. It is practically in every State in the Union. The courts have made it clear that the people who made the MTBE have to come into these communities and clean it up. Now we are saying with ethanol, on the one hand, it is safe. Well, if it is so safe, why do we have to give it a special safe harbor and people give up their right to recover in their community in Tennessee or communities in California?

The fact is, they will say the waiver of liability is very narrow but, in fact, what they have waived is the only course of action a community can pursue.

Then you will hear: This is different because we are mandating ethanol. Therefore, we should protect the people who make it. We mandated airbags, and we didn't give a liability waiver to the people who make airbags. We mandate pollution control devices, but we don't give a liability waiver to the people who make it. So this is about the sheer power of special interests.

Let's not put our communities at risk. We could debate whether we ought to have this ethanol mandate. As we will see how it comes out, some people favor it, some don't. We should agree to protect our people.

I hope my colleagues will vote against the motion to table the Boxer amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I move to table amendment No. 781 and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Ohio (Mr. DEWINE).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from California (Mrs. FEINSTEIN) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. FEINSTEIN) would vote ''nay.''

The PRESIDING OFFICER. Are they any other Senators in the Chamber desiring to vote?

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 137 Leg.]

YEAS—59

Alexander	Dole	Martinez
Allard	Domenici	McConnell
Allen	Dorgan	Murkowski
Baucus	Enzi	Nelson (NE)
Bayh	Frist	Pryor
Bennett	Graham	Roberts
Bond	Grassley	Rockefeller
Brownback	Hagel	Salazar
Bunning	Harkin	Santorum
Burns	Hatch	Sessions
Burr	Hutchison	Shelby
Chambliss	Inhofe	Smith
Coburn	Isakson	Stabenow
Cochran	Johnson	Stevens
Coleman	Kohl	Talent
Conrad	Kyl	Thomas
Cornyn	Landrieu	Thune
Craig	Lincoln	Vitter
Crapo	Lott	Voinovich
DeMint	Lugar	

NAYS—38

Akaka	Dayton	Lautenberg
Biden	Dodd	Leahy
Bingaman	Durbin	Levin
Boxer	Ensign	Lieberman
Byrd	Feingold	McCain
Cantwell	Gregg	Mikulski
Carper	Inouye	Murray
Chafee	Jeffords	Nelson (FL)
Clinton	Kennedy	Obama
Collins	Kerry	Reed

Reid	Snowe	Warner
Sarbanes	Specter	Wyden
Schumer	Sununu	

NOT VOTING—3

Corzine	DeWine	Feinstein

The motion was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. NELSON of Nebraska. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 782 TO AMENDMENT NO. 779

Mr. SCHUMER. Mr. President, I rise to offer an amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 782 to amendment No. 779.

Mr. SCHUMER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To strike the reliable fuels subtitle of the amendment)

Strike subtitle B of the amendment.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I rise today in opposition to the amendment that has been put before the Senate by my good friend and colleague from New Mexico and offer a second-degree amendment to it. Now, I do so not only out of the sincere belief that the provision will hurt consumers in New York, but that it will hurt consumers throughout the country, and that it is anticompetitive and not the way a free market ought to go.

The amendment of my good friend from New Mexico is one of those amendments that, while well-intentioned, could come back to haunt every one of us. I have been in Congress for 23 years, and every so often there is an amendment that people vote for, confident on the surface that it seems like the right thing to do, and a few years later it turns out to be a big disaster. Then our constituents turn to us and say: What the heck have you done? How could you have done this?

This is one of those amendments, like a catastrophic illness. My colleagues, beware. If there was ever an amendment quietly put in a bill that should really have a skull and crossbones label on it, at least to those of us from States without a large amount of ethanol, this amendment is it.

So today I rise to join my colleague from New York, my colleagues from California and elsewhere, mainly on the coasts, but not exclusively so, to debate an unprecedented new ethanol gas tax that would be levied on the American people by the amendment we are now considering.

So many are against any kind of gas tax. I understand that. I have opposed many gas taxes, too. But why, when the gas tax comes in the form of an ethanol mandate but has the same effect—causes the price of gasoline to those under its yoke to rise—do we not oppose it?

The amendment offered by Senator DOMENICI does accomplish two goals that I consider very worthy and which my amendment would let stand. One is restricting the use of MTBEs, which has resulted in groundwater pollution all over the country. The second is scrapping the oxygenate mandate that led so many States to make such heavy use of MTBE in the first place.

The proposal in the amendment also provides an antibacksliding provision to require continued efforts on clean air. That is another goal that I support. The number of people who are living longer and living better because our air is cleaner is enormous. We all benefit from that. So the antibacksliding proposal is a good measure, and I applaud it.

I believe that eliminating the oxygenate requirement and letting each region meet clean air standards in the way that suits it best is smart energy policy. If that is all my friend from New Mexico did, I would be on the floor supporting his amendment and cheering it on.

But as they say, Mr. President, there is always a catch. This amendment adds an astonishing new anticonsumer, anti-free-market requirement that every refiner in the country, regardless of where they are located, and regardless of whether the State mandates it and whether the State chooses a different path to get to clean air, must use an ever-increasing volume of ethanol.

If they do not use the ethanol—and this is the most amazing part of the bill—they still have to pay for ethanol credits. If your State does not want to use ethanol because it is so expensive to transport it—there are no pipelines—on the barges and on the boats and in the trucks—so let's say it is too expensive to do that—you still have to pay for it.

If there were ever an onerous, anticompetitive, anti-free-market provision, this is it. Where else do we mandate that people pay for something when they do not use it? Why are we saying to the car drivers of America, the motorists of America, You have to pay for this stuff even though you do not use it? It is nothing less than an ethanol gas tax levied on every driver—the employee driving to work, the mom who is driving kids to school, a truck driver earning a living. Every gasoline user in this country will pay.

Now, in 2003, the United States consumed only 2.8 billion gallons of ethanol. Starting in 2006—a mere year away—they would be required to use 4 billion gallons of ethanol. Where are my friends from the free market when we need them? We hear about the free market. Is this a free market? Are we letting everyone decide how to meet a worthy clean air standard? Absolutely not. So 2.8 billion last year; in 2006, you have to use 4 billion; and by 2012, you have to use 8 billion gallons of ethanol and increase it every year by a percentage equivalent to the proportion of ethanol in the entire U.S. gas supply after 2012 in perpetuity.

If production does not happen, if we do not have enough ethanol—I don't know how the sponsors came up with 4 billion or 5 billion or 8 billion—guess what happens. We get a big price spike. At a time when gasoline is expensive enough, do you want to be accused of passing legislation that will raise the price more? I know there are corn growers in some States, and I know that Archer Daniels Midland and all these other ethanol producers are pretty powerful. But what about all the drivers and motorists throughout the country? What about them? There are many more of them than the rest, and every one of them will be at risk. Even in the Middle West where there is plenty of ethanol, if there is not enough to meet the mandate, there is going to be a price spike for everybody.

Now, there are a lot of estimates out there that try to predict what the new mandate is going to cost motorists at the pump. In some of the more conservative estimates, it is a few pennies a gallon. But others have pegged the cost significantly higher. Even though the size of the increase may be open to discussion, it is generally agreed that this mandate is going to cause an increase in the price of gasoline.

Last year when we had a bill, gasoline was about $1.60 or $1.70 a gallon. Now it is $2.25 a gallon. Do we still want to do this? Aren't gas prices high enough? The fact that we do not know how severe the increase is going to be should give us pause. As we have seen time and time again, there is not much more of an effective way to stifle an economy or place burdens on families across America than by causing a price spike, a hike in gasoline prices.

I know the supporters of this ethanol gas tax are going to argue that the claims I am making are not accurate, and the cost of forcing the entire country to use 8 billion gallons of ethanol is a mere pittance. Remember, ethanol is very hard to transport. It cannot be carried through our existing pipeline infrastructure. It must be put on a truck, a barge, sent down the Mississippi, then sent by boat all around the country, then loaded back into a truck, taken to a local refinery, and put into the gasoline. That will be the added expense passed on to the driver. That is why this is a regional proposal more than it is a party proposal.

To forecast how much a 6-year, 8-billion-gallon ethanol mandate is going to cost consumers across the country, you first have to look at the interplay of a host of complex factors—the growth in auto travel, gasoline prices, corn prices, ethanol prices, how many ethanol plants will come on line—and all of these are inextricably linked to how high the price of ethanol is going to go.

If ethanol prices are high and manufacturing ethanol profitable, the private sector will build ethanol plants. If ethanol prices are low, they will not. So I think the numbers my opponents are using make an unrealistic set of assumptions, basically that ethanol prices will be unusually low for the next 10 years, and yet at the same time the private sector will be building new plants all over the country. You can't have it both ways. If the price is high, yes, there will be more ethanol plants. If the price is low, there are not likely to be any, and the price is going to go up either way. But in truth, whether it costs a penny a gallon or a dollar a gallon, consumers should not be forced to pay an ethanol gas tax at all.

There is no sound public policy reason for mandating the use of ethanol, other than political might of the ethanol lobby. The new ethanol tax will contribute to market volatility and price spikes, especially because the ethanol industry is highly concentrated within a few large firms located in the Middle West. In fact, ADM alone controls almost 30 percent of the market, according to CRS.

My opponents also argue that the ethanol gas tax is needed to help family farms. I take these arguments seriously. I know how many of my colleagues from the Middle West want to help family farmers who are struggling. I want to help those farmers, too. I have stood by my Senate colleagues and voted for billions of dollars in agricultural subsidies to help the farmers in the South and West, even though those commodity subsidies don't help my farmers in New York. But as I have said, the ethanol gas tax money will not be going mostly into the pockets of family farmers, it will go into the pockets of ADM and the other big ethanol companies. All of a sudden, are the farmers going to get the big benefit? They don't get it for milk. They don't it for corn. They don't get it for meat. Is the beneficent rule of ADM going to give our corn growers the benefits of this or do you think ADM and the other big companies will take the benefit for themselves?

If you want to help our family farmers, take the money you are using that will cost this and give it to them, and you will spend a lot less money and help the family farmer a lot more without all the middlemen who don't need the help.

The final argument my opponents will make—and this is a cynical one—is that if New York and California and other States want to clean up their water by banning MTBEs and maintaining clean air, they should have to pay the price of an ethanol gas tax, and it is political naivete to think otherwise. My State has already banned MTBE. So have others, such as California, Colorado, Connecticut, Indiana, Illinois, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Missouri, Nebraska, Ohio, South Dakota, and Washington. Every one of these States has enacted its own MTBE bans or taken steps to restrict its use. A number of other States are in the process of taking action as well. Because what we have learned is that MTBEs pollute the ground water.

Every one of those States that has banned MTBE is going to find itself in an impossible dilemma. Their citizens are demanding they ban MTBE, but with the oxygenate requirement in place, they can't do so. Recently, the EPA denied the application of New York and California for a waiver from the oxygenate requirement, putting States with MTBE bans between a rock and a hard place. Our citizens' health and the environment are being held hostage to the desire of the ethanol lobby to make ever larger profits. Why didn't the EPA grant the waiver? It didn't affect clean air or clean water. Raw politics, trying to suck money out of one region and put it in another. That is not fair. That is not right.

Our citizens' health and environment are being held hostage to the desire of the ethanol lobby to make ever larger profits. The administration has already gone along. Will this Senate?

It is an outrage. For Congress to tell Americans across the country that we refuse to clean up the air and water unless they pay off ADM is unconscionable. There is no public policy reason on Earth not to allow States to ban MTBEs and remove the oxygenate requirement and keep clean air standards in place without requiring them to buy ethanol.

In New York, we have been forced to for over a year and a half. Our gasoline prices are too high already, and the unnecessary ethanol requirement we face is not helping.

In conclusion, I ask my colleagues to support my amendment to strike the ethanol mandate. If you believe that Congress has the obligation to protect the health of our citizens and the environment, support banning MTBE, getting rid of the oxygenate requirement, and maintaining clean air standards. Don't support forcing American consumers to pay for ethanol in exchange. If you believe the Congress has an obligation to protect consumers and keep our free market running as efficiently as possible, then, again, I ask Members, please, do not support forcing American consumers to raise their gas prices and to pay for ethanol.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. HARKIN. Will my friend yield for a question?

Mr. SCHUMER. I am happy to yield for a brief question to my good friend from Iowa.

Mr. HARKIN. Since my friend mentioned——

Mr. DOMENICI. I believe I have the floor. I am pleased to yield.

Mr. HARKIN. I thought he still had the floor.

Mr. SCHUMER. I didn't think I had yet yielded the floor.

The PRESIDING OFFICER. The Senator from New York still has the floor.

Mr. SCHUMER. I was about to, but I am finished with my statement.

Mr. HARKIN. I just wanted to respond to my friend from New York. Is my friend from New York aware of the fact that right now, the price of gasoline is around $2.03, or $2.05 a gallon? Ethanol right now is about $1.60 a gallon. My question to my friend from New York is, if the free market is at work, why aren't the oil companies blending more ethanol since they would make more money?

Mr. SCHUMER. Well, let me answer my friend. The cost of ethanol varies greatly depending on what region of the country the ethanol is produced in. What makes it so expensive for New Yorkers is not the cost of actually making it in Iowa or Illinois or Kansas. What makes it so expensive is there is no cheap way to get it from the cornfields of Iowa to the gas stations of New York and, as a result, the cost of transporting the ethanol. Sure, it can be made out there. We don't have many ethanol plants in New York. They have to put on it barges. They have to ship it slowly down the Mississippi. They have to unload it onto boats. The boats have to go round the gulf coast, go around Key West, up the east coast. They have to dock in New York City. It then has to be loaded onto trucks and sent to gas stations—a lengthy and expensive process.

Let me say in all seriousness to my good friend from Iowa, I have talked to some of the major refiners in the Northeast. They are able to meet the clean air standard more cheaply and better without ethanol than with it. And by our requiring them to put the ethanol in the gasoline is the only reason they do it. If we didn't require them but kept the clean air standard, we would have gasoline that is just as clean but a lot cheaper for constituents.

I want to help your corn farmers, but I don't want the housewife who drives the kids to school or the salesman who has to go door to door to be subsidizing your corn farmers. Let the whole government do it.

Mr. HARKIN. Will the Senator yield for another question?

Mr. SCHUMER. I am happy to yield for another question.

Mr. HARKIN. My friend talked about the transporting of ethanol going down the Mississippi and then on barge around this and that. Has my friend ever considered how you get the oil from the Mideast over here? You have to go over there with a big tanker. You have to load it up. Then that tanker has to go across the oceans, and it has to come into New York or wherever the port is and unload it. Then it has to be shipped to a refinery to refine it.

Then, in order to protect that oil pipeline from the Mideast, we have to send 130,000 troops, our military. We have to protect our sea lanes—the billions of dollars that it costs to protect

shipping that oil from the Mideast and all that. I can assure my friend from New York that they will never have to send our young men and women to Iowa to fight.

Mr. SCHUMER. We would like to send them to Iowa on vacation to help pick the corn, but, certainly, we hope that this ethanol fight, as fractious as it is—I can state that the citizens of New York will not declare war on the citizens of Iowa.

Mr. HARKIN. You will never have to worry about that.

Mr. SCHUMER. Although the bill declares economic war on the citizens of New York, Connecticut, California, and other places which don't have the ethanol.

By the way, I say to my good friend from Iowa, I would not make the analogy that what the ethanol producers are doing is the same as what OPEC is doing with the oil, both causing the price to go way up. I don't like the big oil companies in terms of what they do, but I don't think Archer Daniels Midland is much better.

Mr. HARKIN. We have 16 ethanol sites in Iowa; 11 are predominantly owned by farmers. There is one that Cargill owns, and ADM owns one. Almost all of the new ethanol plants being built in the United States are owned and operated by farmer-owned enterprises. It so happens that ADM was there in the beginning.

But what is happening now—and especially with this legislation—is you are going to see more and more farmer-owned plants. That is what is happening. My friend is talking about the past. We are talking about the future.

The way to break the OPEC cartel is to get a lot of farmers around the country, using new technologies, making ethanol out of corn and cornstalks, and a variety of other feedstocks—and we will soon be making ethanol in the State of New York, as well as in New England. That is what this is about. It breaks the back of the OPEC cartel.

Mr. SCHUMER. I say to my friend, I would like nothing better than to break the cartel. Some say one of the ways to break the cartel is to put a tax on gasoline. The higher you tax the gasoline, the less you will need OPEC. That is true. But the reason we reject that high tax on gasoline is the burden it puts on average people. Well, if that burden is placed on the average driver in New York to pay a lot more to the ethanol producers rather than OPEC, what have we gained? Fifty cents out of your pocket? If faced with a choice, I would rather have it go to an American company—although there is ExxonMobil and others—I would rather it go to an American producer in the cornfields in Iowa than to the oilfields in Saudi Arabia. But neither is a very good choice. Both of them cause huge hardship on the consumer by raising the price.

So all I say to my friend from Iowa, who I know has the interests of the average worker at heart—all I say to him is, if ethanol is better than gasoline and cheaper for people in Iowa or Illinois, God bless you, use it.

Let me ask my friend a question. Is it fair—because we won't use the ethanol in a lot of instances—to say to us, as this amendment does, you have to pay for it whether you use it or not?

Mr. HARKIN. I respond that that is not the case. I will say more about that in my remarks following my friend. That is not the case at all. I wanted to correct something. I made a mistake. In all good faith, and in making sure that I speak correctly, I said earlier that a gallon of gasoline was $2.03 and ethanol was $1.60. What is it in New York?

Mr. SCHUMER. It is $2.25.

Mr. HARKIN. I was wrong about ethanol. A gallon of ethanol is only about $1.22. I point out that it would be great if more people used it. It is only $1.22 and $2.25 for gasoline.

Mr. SCHUMER. If my colleague can get the price of whatever it takes to drive a car down to $1.22 in New York and have the same efficiency—it is almost as efficient, not quite, at 90 percent—and the same level of cleanliness in the air, I would be all for it. But everyone knows, again, whether it is $1.20 or $1.60, the basic cost for us is the transportation cost.

My colleague from New Mexico has been waiting very patiently. I appreciate the spirit of my good friend from Iowa in this dialog, which we have disagreed on over the years. I don't know if we will ever agree on it.

I am happy to yield the floor so my colleague from New Mexico can make his comments.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I say to my friend from New York, maybe on this one we disagree, but we have another big issue that we agree on. We are going to do something about the art community in your State and collectible items.

Mr. SCHUMER. Maybe under the chairman's leadership—if the chairman will yield—we should add that wonderful amendment to this bill and pass it right now.

Mr. DOMENICI. I don't know what would happen if we went to the House with it. Maybe we could hurry it up that way. In any event, a number of Senators want to speak. I will not address the issue that was spoken to because many others are going to—except I remind everybody that something was said here about a monopoly, lack of competition. The Senator from New York made the case for lack of competition. When we use gasoline, let's not forget we have been subjected to the most monopolistic control mechanism for the price of almost anything this country has ever seen. The cartel is strangling us.

As we drive down the road, we are driving on gasoline that is indeed noncompetitive. It is competitive for a few cents because the filling stations might be competitive, but the basic price is the monopolistic issue.

Mr. REID. Mr. President, I rise to discuss the energy bill that we will consider over the next 2 weeks. Senators DOMENICI and BINGAMAN should be commended for their bipartisan work in the Energy and Natural Resources Committee to bring us to this point today.

The events over the last 4 years have highlighted what Americans have known since the 1970s—our national security and our economic security depend on our energy security. Americans need and deserve an energy bill that truly moves us toward energy independence.

Seriously addressing our national security means kicking our dependence on foreign oil.

Today, we import 58 percent of our oil.

Our dependence on imported oil poses a risk to our national security and our economic well-being.

We will consider a number of additional proposals that can help make greater energy security a reality for future generations of Americans.

There will be amendments offered to the bill regarding energy security, renewable energy, biofuels, climate change, and fuel economy.

We must reduce our dependence on foreign oil and make a commitment to clean, renewable energy.

If we choose to invest in energy efficient technologies and renewable energy, we will create thousands of new jobs . . . we will protect our environment . . . and we will bolster our national security.

That is the vision our Nation needs. That is the leadership we must provide.

Mr. CORZINE. Mr. President, I first thank Chairman DOMENICI and the ranking member, Senator BINGAMAN, as well as both of their staffs on the Energy Committee for all of their hard work in preparing an energy bill. Their leadership has allowed the Senate to come together today and discuss an issue that is paramount to our Nation's quality of life and our homeland and economic security.

As this body considers omnibus energy legislation, it is crucial that we formulate an energy bill that meets several criteria. The legislation must reduce the United States' unhealthy dependence on foreign oil; address the United States' skyrocketing gas prices; invest in environmentally friendly technology and research; protect the moratorium on drilling in the Outer Continental Shelf; address global warming; and promote energy efficiency.

The Department of Energy currently projects that coal and natural gas will be used to meet most of our Nation's increasing electricity energy demand over the next 20 years. It is my firm belief, however, that as we increase generation, the United States must ensure that its energy portfolio is well diversified. New Jersey, which is already suffering from the effects of poor air quality—one-third of which is traced to

out-of-State sources—would not be well suited by increasing our reliance on coal. In addition, considering the spiking price of natural gas, this source is not the cure-all that it was envisioned to be a few years ago. We must, therefore, consider all forms of electricity generation to meet our demand, including other clean and domestic forms of energy.

I am proud to note that New Jersey currently generates 75 percent of its electricity from low-polluting sources. Nuclear energy contributes almost 53 percent of the electricity on New Jersey's power grid. However, the need to protect diverse electricity generation is particularly profound in New Jersey. In addition to rapidly increasing electricity demand, seven generation facilities are scheduled for retirement and the license of one nuclear facility expires within the next 5 years—leaving a huge void, since this facility currently meets 10 percent of New Jersey's peak demand.

Promoting renewable energy will help the United States increase its energy security by reducing our dependence on foreign energy sources. Expanding our renewable energy resources will also allow us to rely on cleaner, more diverse sources of energy. It will also allow us to decrease our reliance on fossil fuels, which in turn could protect energy prices from the volatility of fossil fuel markets. Finally, we can reduce greenhouse gas emissions and other pollution and encourage economic development around renewable energy industries. It is truly a win-win for our country.

New Jersey has been a national leader in renewable energy. My State already has its own 20 percent renewable portfolio standard. New Jersey is not only the first mid-Atlantic State to adopt renewable energy requirements for all retail energy suppliers, but it also has one of the most aggressive funding mechanisms in the Nation for promoting renewable energy.

Protecting our coastlines is another priority of mine when considering our energy future. Jersey shore tourism, the second largest industry in my home State, generates $31 billion in spending. This spending directly and indirectly supports more than 836,000 jobs—more than 20 percent of total State employment—generates more than $16.6 billion in wages, and brings in more than $5.5 billion in tax revenues to the State. I am, therefore, deeply concerned about a provision added in committee that would allow an inventory of the offshore oil and gas resources. While on the surface, an inventory sounds harmless, the explosive impulses associated with seismic exploration of sensitive coastal waters threatens marine life and can be detrimental to fisheries. Even more concerning is the fact that the inventory is sure to be just a first step on a slippery slope toward offshore drilling. With so much of my State's economy dependent on the cleanliness of our beaches, it is imperative that we stop all efforts to weaken the moratorium on OCS drilling. I am prepared to fight any amendment that would threaten it, including those allowing States to opt out or opening up designated areas off our coast. Senator MARTINEZ, Senator NELSON, and I plan to offer an amendment that would remove the inventory provision, and I urge my colleagues to vote in favor of our amendment so that we can protect our Nation's coastlines as well as our States' economies.

It is also my hope that we create an energy policy that adequately promotes a clean and healthy environment. It is time that our Nation confronts the serious problem of global warming. Increasing CAFE standards for automobiles and reducing powerplant emissions can go a long way in reducing harmful greenhouse gas emissions. I was a leader on this issue during the 107th Congress when the Senate included in the Energy bill the greenhouse gas registry amendment that Senator BROWNBACK and I offered. The registry was also a part of the Senate Energy bill that was agreed to by the Senate in the 108th Congress.

I was, however, disappointed that an amendment offered by my friend from California, Senator FEINSTEIN, to close the SUV loophole and improve the fuel economy of passenger vehicles failed in committee. I believe this amendment would have been effective in reducing our dependence on foreign oil, cutting global warming emissions, and saving consumers thousands of dollars annually at the gas pump.

Another way we can start reducing greenhouse gas emissions is by promoting energy efficiency standards for homes and appliances. I am proud to say that this bill includes language that I successfully added to the 107th Congress Energy bill encouraging the Department of Housing and Urban Development and the public housing authorities—PHAs—it oversees to increase energy efficiency in public housing projects. HUD and the PHAs currently oversee approximately 1.3 million units of residential low-income public housing across the country. The Federal Government spends approximately $1.4 billion total for utility usage in these units. HUD has conservatively estimated that improved energy management processes throughout all of its public housing programs could save between $100 and $200 million annually.

In addition the Department of Energy has estimated that if energy management was improved in all public and assisted housing programs the Federal Government could save between $300 million and $1 billion annually.

My provisions address the absence of resources at HUD to help PHAs manage their utility expenditures and the lack of incentives for implementing energy efficient systems and technologies both contribute significantly to high energy expenditures. I again thank the chairman and ranking member of the Energy Committee for working with me to include these important energy efficiency provisions in the bill.

While there are many issues we need to address in this bill, I also want to make clear my opposition to several amendments that have come up in the past in this body. I am adamantly opposed to any special favors for oil and gas producers that would be harmful to many of my constituents. I am especially concerned, therefore, about a provision that was included in the House bill that would shield from accountability the manufacturers of MTBE.

Finally, when it comes to the renewable fuel standard—RFS—I am very concerned about the 8-billion-gallon RFS included in the Senate bill. With the cost of living in New Jersey being one of the highest in the Nation, an increase in the mandate would essentially be a gas tax for my constituents.

I look forward to the debate on this important bill. It is time that we passed an energy bill that will take the vision of future U.S. energy policy in the right direction—toward energy independence, innovation and conservation.

MORATORIA FOR OIL AND GAS DRILLING

Mr. NELSON of Florida. Mr. President, under the chairman and ranking member's leadership, the Energy and Natural Resources Committee produced an energy bill that passed out of the committee by a vote of 21 to 1. It is a bill that has a lot going for it. I continue to have concerns about it, including a major concern about a provision that requires an inventory of oil and gas reserves in the Outer Continental Shelf, which my colleague from Florida and I will attempt to remove. And I am aware of other important amendments that will be offered by my colleagues to improve the bill. But I want to indicate to the distinguished chairman that I think he has gotten his bill off to a good start.

However, the progress of this bill would be jeopardized if we begin to debate amendments that would change the status quo with respect to the sale of leases for oil and gas drilling in the Outer Continental Shelf. Vast areas of the Outer Continental Shelf are under moratoria for oil and gas drilling, and other extremely sensitive areas, such as Lease Sale 181 in the Eastern Gulf of Mexico off of Florida, have been made unavailable for leasing by the Department of the Interior.

I am aware that there are differences of view among my colleagues on how we should proceed with respect to the Outer Continental Shelf. My good friend and colleague from Louisiana, Senator LANDRIEU, and I have debated our different views on this at length, and have agreed to work together on a plan to increase the flow of revenue to States that currently allow drilling off their coasts, without opening up new areas for drilling. I can tell my colleagues that in Florida, this is a consensus issue. Florida's pristine beaches

and clean coastal environment are so important to our State's tourism-based economy that there is no support—zero—for drilling in the waters off Florida in the Eastern Gulf of Mexico. For that reason, I am compelled to ask the chairman and ranking member for their commitment that they will oppose, and work to defeat, any amendments to this bill that would change the status quo in the Eastern Planning Area. That commitment would apply to amendments proposing any change in the areas now under moratoria, any additional leasing activity in Lease Sale 181, beyond what was agreed to in 2001, and includes opposing the drawing of lateral seaward boundaries into the Eastern Planning Area.

Mr. MARTINEZ. Mr. President, I thank the chairman and ranking member for their leadership and for engaging us in this colloquy. For Floridians, there is simply no margin for error when it comes to offshore oil and gas drilling. Our $50 billion tourism industry is the lifeblood of our economy, and our tourism is based on people coming to enjoy the clean water, sugar-white sands, and excellent fishing that can be found up and down our coasts. The risk of even one offshore drilling accident to this economic engine is simply too great for us to take.

I will seek to strike the section that permits an inventory of oil and gas reserves in the Outer Continental Shelf. We are very concerned in Florida that an inventory is simply the first step down a slippery slope toward expanded drilling. But I will also join my colleague in seeking the commitment of the distinguished chairman and ranking member to oppose any amendments that would change the status quo in the Eastern Planning Area.

Mr. DOMENICI. Mr. President, it is my position that it is unfair to prejudge any hypothetical amendment, ruling it in or out without knowing the substance of the provision. Furthermore, I do not want to be in a position to preclude any of my colleagues from offering what they think are improvements to this legislation.

That having been said, I assure my colleagues, Senator NELSON and Senator MARTINEZ, that I will not support any amendment that alters current OCS moratoria with respect to submerged lands off of Florida's coast or that affects lands in Lease Sale 181, not so much because of the substance of any amendment of the sort, but because it would bog down this bill.

I want it to be clear that restricting development of our natural resources is not a policy view that I share, particularly in these times of severe shortages and high prices. I am on record supporting the principle that individual States should have greater input in petitioning the Federal Government to allow oil and natural gas production on the OCS. I am also on record stating that I believe that the time has come for the executive branch to draw boundaries and publish these boundaries as previously required under the Outer Continental Shelf Lands Act. I also believe that it is imperative that we increase our production on the OCS in order to decrease our dependence on foreign sources of oil. Finally, I think that it is important that we work toward recognizing, in real financial terms, the sacrifice that certain coastal States make toward helping our Nation meet its energy needs.

Having said all of this, I understand the importance of this issue to my colleagues from Florida. Although we do not agree, I respect their difference of opinion. I respect their passion on this issue and I make this concession because I understand the necessity of moving forward with this energy bill. This bill in its totality is more important than any one part. And, to that end, I extend this offer to my colleagues.

It should be noted, however, that this position does not apply in any way to any provision currently contained in this bill as reported out of the Energy Committee, including the comprehensive OCS inventory. While I will assist Members in working toward what I think are improvements to the inventory section, I will strongly oppose any attempt to strike the section. Furthermore, I will oppose any amendment that I think weakens any of the OCS provisions already contained in this bill. I thank my colleagues for their attention to this issue and look forward to working with them on this in the future.

As I said at the outset, I will not support any amendment that alters current OCS moratoria with respect to submerged lands off of Florida's coast or that affects lands in Lease Sale 181.

Mr. BINGAMAN. Mr. President, I join the chairman in his reluctance to prejudge amendments that we have not yet seen here in the Senate. We are trying very hard on this bill to consider and work out issues on their merits, which is how I think energy legislation should be considered in the Senate.

I can assure my colleagues, Senator NELSON and Senator MARTINEZ, that in order to move forward expeditiously with this legislation, I will likewise not support an amendment that alters current OCS moratoria with respect to submerged lands off of Florida's coast or that affects lands in Lease Sale 181, and that I will work very closely with them on any amendment that they believe affects Florida's interests with respect to the Outer Continental Shelf. Senator NELSON has been a strong leader and advocate for preventing oil and gas development off of Florida's coasts. He is a passionate defender of the pristine beaches, estuaries, and native mangrove ecosystems of Florida. I am keenly aware that he and his colleague, Senator MARTINEZ, have considerable rights under the Senate rules to impede the progress of this bill if amendments threatening these important Florida resources were in fact offered. But, I think it is unlikely that any Senator will offer an amendment to lift OCS moratoria off of Florida, or open areas otherwise unavailable for leasing, during our consideration of this bill.

I have somewhat different policy views than those of Chairman DOMENICI with respect to the role of States and the OCS. I certainly agree with his desire to see additional environmentally responsible energy development on the Outer Continental Shelf. Any policy differences regarding how that is to be accomplished are probably best left to another occasion. I also have a very different policy view on Lease Sale 181 from the Senators from Florida. I have supported drilling in the Lease Sale 181 area in the past and am likely to do so in the future.

I do believe that oil and gas production on the OCS can and will play an important role in meeting our Nation's energy needs, and that we need to craft appropriate national policies in that regard. For that reason, like the chairman, I support the inventory proposal contained in the bill now, and would support attempts to improve it. But I do not think that such provisions necessarily would operate to the detriment of Floridians. I appreciate the diligence being shown by our colleagues on these topics, given the importance that Floridians place on maintaining a pristine coastal environment. I look forward to continuing to work with them on these issues as this bill progresses.

MORNING BUSINESS

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

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

J. JAMES EXON, NEBRASKA GOVERNOR AND SENATOR

Mr. NELSON of Nebraska. Mr. President, I am here today to pay tribute to a great American and a great Nebraskan. J. James Exon served with distinction in the United States Senate from 1979 to 1996 an as Governor of Nebraska from 1970 to 1978. Senator Exon passed away in his hometown of Lincoln, NE last Friday at the age of 83. His funeral services are tomorrow in Lincoln.

Jim Exon understood Nebraskans like no one else which explains his popularity with the people of his State. He loved them and they loved him back.

He was a Democrat in a highly Republican State, yet he never lost an election in 2 campaigns for Governor and 3 for United States Senate. He understood that Nebraska is a populist state more than it is a partisan state. Most Nebraskans judged him on what he said and what he did, not on his political registration.

Jim Exon was a common man. Nebraskans will remember Jim Exon as one of the greatest leaders Nebraska ever had. Anyone who travels around Nebraska today can see the continuing legacy from his quarter century of public service.

Jim Exon built on the Nebraska tradition of working together. In that way he carried on the legacy of another giant in Nebraska history, Senator George Norris. Norris founded the unicamera legislature in an effort to improve the workings of government and to achieve results. Jim Exon had the same philosophy.

I had the honor of serving in then-Governor Jim Exon's cabinet as Nebraska Director of Insurance. He has been a friend and mentor ever since even as I have followed him as Governor and U.S. Senator. I would frequently call him to seek advice and he would often call to offer it. Now, those calls will cease but I don't think I'll ever stop learning from Jim Exon.

The people of Nebraska always appreciated Jim Exon in life as they do now in death. We will miss him but we can all take comfort in the fact that his fingerprints are on more than a quarter century of our history and Nebraska and the United States of America are far better places because of his generous service.

As a former poker partner of Jim Exon, I can say that the man was driven to win. He was surprised by those who didn't try to beat him. That attitude carried over into his public life and is ''part and parcel'' of the reason so many Nebraskans are fond of him. He made you feel like he was on your side. He made you feel your issues were important. And most of all, he made you feel proud to be a Nebraskan.

Those in public life must face the last great scrutiny when they leave this world for the next. Their careers are examined again. Their friends and foes get one last unanswered say. In the case of Big Jim Exon, who liked to have the last word, I know this must be driving him crazy.

In the case of Jim Exon the last word goes to Nebraska, the State and the people he loved so dearly. The State of Nebraska will miss Jim Exon, his wisdom, his humor and his common sense. He is one Nebraskan who from start to finish, and through every day, truly did lead ''the good life.''

I ask unanimous consent to have printed in the RECORD two editorials from Nebraska newspapers that captured the essence of Jim Exon so eloquently, one from my hometown paper, the McCook Gazette and another from the Omaha World Herald.

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

[From the McCook Gazette, Jun. 13, 2005]

''COMMON MAN'' EXON IN TOUCH WITH STATE

The former editor and publisher of the McCook Daily Gazette, Allen Strunk, played a key role in the political career of J.J. Exon, the former Nebraska governor and senator who passed away Friday at age 83.

Strunk, a conservative Republican, broke with tradition in 1970 when he became the only daily newspaper publisher in the state to endorse Exon in the race for governor against Norbert Tiemann.

Contacted at his Las Vegas home this morning, Strunk said he was moved to support Exon because he was a ''common Joe'' who was in touch with the people. ''Exon had been a businessman in Lincoln and the 1970 campaign was his first run for office,'' Strunk said. ''He impressed me as being much more in tune with the wishes of the people than did Tiemann, who came across as pompous.''

The endorsement of Strunk was helpful in the hard-fought race. Another factor was the negative feedback which Tiemann received following passage of state sales and income tax legislation.

Exon's victory in 1970 launched a political career that continued through two terms as governor and three terms as a United States Senator. Whenever he was in Southwest Nebraska, Exon made it a point to stop by the Gazette office for visits with Strunk.

Exon also was an important figure in the lives of two other former McCook residents: the late Frank Morrison, a former governor of Nebraska; and Ben Nelson, a former governor and current U.S. Senator from Nebraska.

Nelson struck the same theme as Strunk, saying, ''Jim Exon was a common man who dearly loved the state of Nebraska and that's why the people loved him. He was one of them and they knew it and were proud of it. His fingerprints are all over the history of Nebraska and he'll go down as one of the greatest leaders this state has ever known.''

During this lifetime, Morrison spoke highly of Exon, as did Exon of Morrison. Exon was among the many mourners when Morrison passed away in 2003 at age 98.

Other than George W. Norris of McCook, Exon was the only Nebraskan to win five consecutive elections. The state will miss him, as will the McCook area, which had a significant role in Exon's long political career.

[From the Omaha World Herald Jun. 12, 2005]

J. JAMES EXON

Perhaps someone else would have made Nebraska a two-party state in the second half of the last century if John James Exon hadn't appeared on the scene.

But it's hard to imagine anyone else doing the job nearly as effectively, and with as much pure joy, as did the former governor and U.S. senator, who died Friday at age 83.

Starting in the 1950s J. James Exon breathed life into the moribund Democratic Party with the force of his personality, the clarity of his vision and the relentlessness of his energy.

He was a force in the candidacy of Govs. Ralph Brooks (1959–60) and Frank Morrison (1961–67). He was guide and mentor to Govs. Bob Kerrey (1983–87) and Ben Nelson (1991–99). In his own right, Exon was the first Nebraska governor to serve two four-year terms (1971–79) and followed that with an 18-year career in the U.S. Senate.

Exon has earned lasting honor in the councils of his party. He helped show Democrats how they could succeed in Nebraska: be true to the better nature of their party while respecting the political traditions and impulses of all Nebraskans. Above all, be a straight shooter. Don't pussyfoot.

But he belongs to all Nebraskans. Exon's presence on the political scene demonstrated the wisdom of evaluating a candidate's knowledge, character and ideas ahead of narrow partisanship. Competition between the parties makes for a better examination of ideas and philosophies, but only if the voters are willing to listen before deciding.

Exon simply would not be put down because the Republicans had a big lead in voter registrations. He said what was on his mind, and the electorate could not help but pay attention.

And thus when the time came to ask Nebraskans for their votes, Republicans stepped forward by the thousands to cast a vote for Jim.

As governor, Exon embraced the mantra of holding the line on spending. He was known for his strongly worded veto messages. He fought his political battles with a gusto that approached celebration.

However, though he was a conservative on spending, he was no skinflint. His dislike of careless spending was balanced by an abiding sense of stewardship over the institutions of state government. He was a man of moderation.

In the Senate, Exon positioned himself as a proponent of a strong national defense and as a knowledgeable source on geopolitical matters. A veteran of World War II, he could thus claim a legitimate share in the victory in the Cold War.

He followed his stars, loved the outdoors, maintained the loyalty of strong men and never wavered in his commitment to fairness and his concern for ordinary people.

Carved in the south facade of the Nebraska State Capitol, facing the Governor's Mansion where the Exons resided for eight years, are the words of Aristotle: ''Political society exists for the sake of noble living.''

Surely Big Jim Exon used that thought, or something very similar, as part of the code by which he lived his life.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I heard the remarks of the distinguished Senator from Nebraska. I don't have time tonight to make my comments about the distinguished Senator, Governor Exon, but tomorrow I will.

Suffice it to say, it was my privilege to serve with him. He was everything the Senator from Nebraska said and more.

Tomorrow I will elaborate on my years of service on various committees. He truly was a wonderful man, a hard worker, a man of great common sense, and he contributed immensely to the years I knew him in the Senate.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me take a minute, also, and underscore the comments our colleague from Nebraska and Senator DOMENICI have made about Jim Exon. He was a great U.S. Senator and one with whom I was fortunate to serve on the Armed Services Committee for many years. He contributed a tremendous amount to his home State and to this country. He will be missed by all who served with him in the Senate.

There is a service for him tomorrow in Nebraska, which I hope to attend. I will also have extensive comments to offer at a future time. It is a great loss to the country and a great loss, of course, to all those who knew him. He will be fondly remembered in this Senate.

I yield the floor.

TRIBUTE TO THE UNIVERSITY OF KENTUCKY'S COLLEGE OF PHARMACY

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the University of Kentucky's College of Pharmacy. Today at the Kennedy Center the college is being awarded the American Pharmacists Association's 2005 Pinnacle Award to recognize the success of UK's Diabetes Education and Management program in helping Kentuckians with diabetes.

Over the past 30 years, doctors have been able to treat more and more conditions with prescription medication. While this revolution in pharmaceuticals is overwhelmingly positive, the incorrect use of medication can result in harmful side effects, ineffective treatment, and unnecessary costs. This is of particular importance in Kentucky, where citizens use significantly more prescriptions than the national average.

The UK College of Pharmacy has created a comprehensive Center for Improving Medication Related Outcomes to educate physicians, pharmacists, and consumers about the appropriate use of medication. This is something I believe in, and since 2002, I have been proud to secure $3 million in Federal funding to help the center become a leader in promoting the safe use of prescription drugs throughout the Commonwealth and the Nation.

The Diabetes Education and Management Program is an important component of the UK Center for Improving Medication Related Outcomes that focuses on diabetes control. I am proud that the UK College of Pharmacy and the Diabetes Education and Management Program have become valuable resources for our Nation's healthcare system. I ask my colleagues to join me in recognizing the University of Kentucky College of Pharmacy for their exceptional work in the field of prescription medication safety.

APOLOGY TO VICTIMS OF LYNCHING

Mr. CORZINE. Mr. President, over 4,700 people, mostly African American, were victims of lynching in the United States between 1882 and 1968. This represents one of the low points in our history as a Nation—a time when our Nation turned away from its responsibility to our fellow citizens and failed to do the right thing. We condemn these terrible crimes and ask forgiveness for the failure of the Senate to act. We are reminded that our history is not perfect and that the Senate made a costly mistake, calculated not in dollar figures but in human lives. I am deeply saddened by the fact that during a time when our commitment to justice for all Americans was tested the U.S. Senate failed to enact antilynching legislation to stop this brutal, tragic, and senseless violence. And so I join my colleagues in this apology.

It would be a mistake to see lynching as distant history for that is simply not the case. Lynching occurred in the United States until 1968 and was committed in 46 States, including New Jersey. Lynching was used to kill, humiliate, and dehumanize African Americans and, to a lesser extent, other minorities. It was intended to teach minorities a lesson—that if they did not follow the established social code of conduct between the races and classes, they too might suffer this fate. Indeed, there are countless stories of African American teenage boys who were allegedly lynched for talking back to a White man or looking at a White woman. Those acts were seen as transgressions in the eyes of lynch mobs who failed to understand one of the most central tenets of our great Nation—that we are all equal under the Constitution and laws of the United States of America.

In reality, it was not only the lynch mobs that failed to understand that we are all equal. State and local governments also failed to uphold this democratic principle. Although State and local laws prohibited murder and other violent crime, State and local officials failed to enforce these laws when they applied to lynching victims. And so lynching continued through the first half of the 20th Century as our society and government failed to hold the people who committed these crimes accountable.

Mr. President, lynching also continued because many communities implicitly sanctioned such events. We are not talking about secret affairs held under cover of darkness by men wearing hoods to hide their identity. We are talking about public spectacles held in town squares during broad day-light with no attempt by the participants to shield their identity. Indeed, there are countless stories of community celebrations surrounding lynching: of businesses closed so locals could attend, of postcards sent out commemorating these horrific events, and of souvenirs such as pieces of hanging rope sold to onlookers.

American Presidents asked the Senate, on seven separate occasions, to enact antilynching legislation to stop the violence. From 1900 to 1950, approximately 200 antilynching bills were introduced in Congress. And between 1920 and 1940, the U.S. House of Representatives passed three such bills. But the Senate remained silent and it was that silence that prevented the enactment of a Federal antilynching law.

This resolution is an acknowledgement that the Senate, in failing to pass a Federal antilynching law, ceased to protect many American citizens. While Federal legislation may not be the ideal solution in all areas of criminal justice, it has been essential in the realm of civil rights. When States have failed to enforce their own criminal laws because of local pressure or bias, the Federal Government has frequently established laws to vindicate the civil rights of all Americans.

Mr. President, I strongly believe that it is not enough for us to stand here and apologize for things that happened in the past. We must use this recognition of the Senate's past inaction to motivate us to enact laws today that protect the basic civil rights of all Americans, such as the Local Law Enforcement Act of 2005. This bill, which I am proud to cosponsor, will strengthen the ability of the Federal, State, and local governments to investigate and prosecute hate crimes based on race, ethnic background, religion, gender, sexual orientation, and disability. I urge all my colleagues to support this bill, a true test of the commitment of the Senate to do the right thing.

CHANGES TO H. CON. RES. 95

Mr. GREGG. Mr. President, section 308 of H. Con. Res. 95 the FY 2006 Budget Resolution—permits the Chairman of the Senate Budget Committee to make adjustments to the allocation of budget authority and outlays to the Senate Committee on Energy and Natural Resources, provided certain conditions are met.

Pursuant to section 308, I hereby submit the following revisions to H. Con. Res. 95:

	$ in billions
Current Allocation to Senate Energy and Natural Resources Committee:	
FY 2005 Budget Authority	5.124
FY 2005 Outlays	3.922
FY 2006 Budget Authority	4.600
FY 2006 Outlays	4.135
FY 2006–2010 Budget Authority	19.461
FY 2006–2010 Outlays	18.898
Adjustments:	
FY 2005 Budget Authority	n/a
FY 2005 Outlays	n/a
FY 2006 Budget Authority	.098
FY 2006 Outlays	.098
FY 2006–2010 Budget Authority	.740
FY 2006–2010 Outlays	.672
Revised Allocation to Senate Energy and Natural Resources Committee:	
FY 2005 Budget Authority	5.124
FY 2005 Outlays	3.922
FY 2006 Budget Authority	4.698
FY 2006 Outlays	4.233
FY 2006–2010 Budget Authority	20.201
FY 2006–2010 Outlays	19.570

JUDICIAL NOMINEES

Mr. KERRY. Mr. President, for the past several weeks, the Senate has been consumed with President Bush's judicial nominations. We have debated the constitutionality of the nuclear option, and we have debated the merits of the judicial nominees themselves. In the past 2 weeks, the Senate has confirmed 6 nominees bringing the total of confirmed judges to 214 out of 218.

I voted for two of these nominees: Richard A. Griffin and David W. McKeague, both of whom were nominated to the Court of Appeals for the Sixth Circuit. These two individuals were highly rated by the American Bar Association, and, although I disagree with their politics, I believe they will be fair and impartial jurists.

I voted against the other four nominees, none of whom I believe deserved lifetime appointments to the Federal bench. Each one has demonstrated an unwillingness to follow the law when it

conflicts with his or her extreme conservative political ideology, and each one embraces a judicial philosophy which would severely curtail constitutionally protected civil rights and civil liberties. Confirming these nominees was a mistake, and their appointments diminish the strength and integrity of the Federal judiciary.

Take, for example, Priscilla Owen. While on the Texas Supreme Court, Priscilla Owen repeatedly attempted to rewrite the law from the bench as her dissent in an abortion case concerning parental consent and judicial bypass clearly demonstrates. Justice Owen did not like the fact that the Texas law permitted abortions without parental consent in certain circumstances. As it turns out, she was not the only one. The majority did not like the law either, but, unlike Justice Owen, they honored their sworn duty to uphold it. In their words, they:

recognize that judges' personal views may inspire inflammatory and irresponsible rhetoric. Nevertheless, the [abortion] issue's highly-charged nature does not excuse judges who impose their own personal convictions into what must be a strictly legal inquiry. We might personally prefer, as citizens and parents, that a minor honor her parents' right to be involved in such a profound decision. But the Legislature has said that Doe may consent to an abortion without notifying her parents if she demonstrates that she is mature and sufficiently well informed. As judges, we cannot ignore the statute or the record before us. Whatever our personal feelings may be, we must respect the rule of law.

Then Justice—and now Attorney General—Alberto Gonzales was much more direct in his criticism of Justice Owen's decision in this matter. He chastised Owen for rewriting the Parental Notification Act in a way that created nonstatutory hurdles to obtaining a judicial by-pass. He called it ''an unconscionable act of judicial activism'' and noted that:

[a]s a judge, I hold the rights of parents to protect and guide the education, safety, health, and development of their children as one of the most important rights in our society. But I cannot rewrite the statute to make parental rights absolute, or virtually absolute, particularly when, as here, the Legislature has elected not to do so.

Entrusting Priscilla Owen with a lifetime appointment to the Court of Appeals for the Fifth Circuit did not strengthen the Federal judiciary, Mr. President, it weakened it.

Janice Rogers Brown has not only shown her willingness to re-write our Federal laws but has also indicated a desire to re-interpret the U.S. Constitution, even if doing so would reverse 70-year-old precedent. Justice Brown has publicly supported a return to the era of Lochner v. New York, one of the most discredited Supreme Court cases in history. Without going into the details, it is fair to say that even staunch conservatives view Lochner as a clear case of the worst kind of judicial activism. Justice Scalia has criticized it, stating that Lochner was discredited because it

sought to impose a particular economic philosophy on the Constitution.

Justice Brown thinks Justice Scalia is wrong. She explained, I quote, that it

dawned on me that the problem may not be judicial activism. The problem may be the world view—amounting to altered political and social consciousness—out of which judges now fashion their judicial decisions.

Justice Brown brought that same kind of activism to bear on her lone dissent in the 2001 case of San Remo Hotel v. California, when she interpreted the Constitution—in this case the Takings Clause—to advance her personal economic theories.

Placing Janice Rogers Brown on the Court of Appeals for the District of Columbia Circuit did not strengthen our Federal judiciary, Mr. President, it irreversibly damaged it.

William H. Pryor Jr. has been a constant and outspoken advocate for scaling back constitutionally guaranteed rights. Pryor opposes abortion even in cases of rape or incest, and has called Roe v. Wade a creation

out of thin air of a constitutional right to murder an unborn child.

As the attorney general of Alabama, Pryor filed an amicus brief with the Supreme Court equating private consensual sex between same-sex couples with activities like prostitution, adultery, necrophilia, bestiality, possession of child pornography, and even incest and pedophilia.

The Supreme Court rejected Pryor's arguments when it found the Texas law criminalizing private, consensual sexual intimacy between same-sex adults to be unconstitutional. The Supreme Court also rejected Pryor's argument, filed in another amicus brief, that the eight amendment permits the execution of mentally retarded offenders.

William Pryor's consistent pursuit of extreme and incorrect legal views should have been a red flag for my colleagues. It should have demonstrated how dangerous placing him on the Federal bench with lifetime tenure would be. Unfortunately, Mr. President, it did not. As a result, our Federal judiciary will have less ability to protect the constitutional rights we hold so dear.

Thomas B. Griffith presents a similar threat to our constitutional rights, particularly to the rights of women. As a member of the President's Commission on Opportunity and Athletics, Mr. Griffith made a radical proposal to eliminate the ''proportionality test'' in title IX cases. The proportionality test has long been used for determining compliance with title IX and requires that the school in question demonstrate that the athletic opportunities for males and females are in substantial proportion to each gender's representation in the student body of the school. As support for his proposal, Mr. Griffith stated that he was unilaterally opposed to the use of numeric formulas to evaluate title IX compliance. He added that, in his view, the proportionality test—and the use of numeric formulas—violates the equal protection clause, despite the fact that eight Circuit Courts of Appeals have rejected that very position.

Mr. Griffith's statement demonstrates a lack of respect for previous court rulings and raises questions about whether, as a judge, he would follow established precedent. In fact, the ABA has rated him partially not qualified. With legal views so clearly out of the mainstream, Mr. Griffith's confirmation seriously undermines the strength of the Federal judiciary. His confirmation is particularly problematic given the fact that his voice will be added to that of Janice Rogers Brown, both of whom have been confirmed to the D.C. Circuit.

Thus, after months of debate, we are left with a Federal judiciary less likely to protect individual rights and more likely to undermine the legal principles which Americans hold so dear. And, because we have spent so much time debating these unqualified judges, we, as U.S. Senators, have not been able to address the very real problems facing the American people. Problems like ensuring people have adequate health care and top-notch educations. Problems like securing our energy independence and providing for our Nation's military families.

Currently, 44 million Americans do not have health care, and as a result, many middle-class Americans are one doctor's bill away from bankruptcy. This is particularly troublesome given that eleven million of those uninsured are children—sons and daughters of working parents.

Our education system is terribly underfunded. Teachers are being asked to provide more with less, and, as a result, students of every age from head start to higher education—are getting sub-par educations.

Our Nation is now more dependent on foreign oil than ever before. We rely heavily on Middle East countries that do not share our values—a reliance that makes us more vulnerable every day—yet still, Americans are suffering at the pump, paying $2.12 a gallon.

Our military families, the people who are the front line in the war on terror and allow us to live life as we know, struggle unnecessarily to pay the bills and deal with lost benefits when loved ones are called to duty.

Our country has amassed record deficits, mounting debts that cede a dangerous amount of control over America's economic future to central bankers in Asia and oil cartels in the Middle East.

These are the issues that we should be debating. These are the problems that plague Americans daily. The judicial confirmation process should be quick and easy, allowing us the time we need to work on the real problems facing this great Nation. All we need is for the President to take seriously the Senate's role of providing advice and consent. We need the President to nominate more individuals like Richard A. Griffin and David W. McKeague,

principled jurists who are committed to following the law and upholding our constitutional rights, and less individuals like Priscilla Owen, Janice Rogers Brown, William Pryor, and Thomas Griffith, conservative ideologues who are not afraid to rewrite our laws to further their political agenda. I can only hope that he will do so in the future, sparing the Senate from endless hours of debate on unqualified, dangerous judges.

Thank you, Mr. President.

AGAINST RACE-BASED GOVERNMENT IN HAWAII

Mr. KYL. Mr. President, I rise today to ask unanimous consent that the following analysis of the 1993 Hawaii apology resolution, prepared by constitutional scholar Bruce Fein, be entered into the RECORD following my present remarks.

To be sure, I do not think that the nature of the events that led to the end of the Kamehameha monarchy is relevant to the question whether we should establish a race-based government in Hawaii today. I believe that America is a good and great Nation, and that all Americans should be proud to be a part of it. The United States does not deserve to have its government carved up along racial lines.

Nevertheless, proponents of racially separate government in Hawaii have advanced their arguments for S. 147, the Native Hawaiian Government Reorganization Act, in terms of history. It is thus instructive to take a close look at that history.

[The Grassroot Institute of Hawaii, Jun. 1, 2005]

HAWAII DIVIDED AGAINST ITSELF CANNOT STAND—AN ANALYSIS OF THE APOLOGY RESOLUTION

(By Bruce Fein)

THE 1993 APOLOGY RESOLUTION IS RIDDLED WITH FALSEHOODS AND MISCHARACTERIZATIONS

The Akaka Bill originated with the 1993 Apology Resolution (S.J. Res. 19) which passed Congress in 1993. Virtually every paragraph is false or misleading.

The opening paragraph declares its purpose as to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii and to offer an apology to ''Native Hawaiians'' on behalf of the United States for the event that ushered in a republican form of government and popular sovereignty, in lieu of monarchy. The apology wrongly insinuates that the overthrown 1893 government was for Native Hawaiians alone; and, that they suffered unique injuries because of the substitution of republicanism for monarchy. There never had been a race-based government since the formation of the kingdom of Hawaii in 1810, and only trivial racial distinctions in the law (but for discrimination against Japanese and Chinese immigrants). [Footnote: Minor exceptions include jury trials, membership in the nobility, and land distribution. In addition, the 1864 Constitution mandated that if the monarch died or abdicated without naming a successor, the legislature should elect a native Ali'i (Chief) to the throne.] Native Hawaiians served side-by-side with non-Native Hawaiians in the Cabinet and legislature. The 1893 overthrow did not disturb even a square inch of land owned by Native Hawaiians. If the overthrow justified an apology, it should have been equally to Native Hawaiians and non-Native Hawaiians. Both were treated virtually the same under the law by the ousted Queen Liliuokalani. Moreover, it seems preposterous to apologize for deposing a monarch to move towards a republican form of government based on the consent of the governed.

Paragraph two notes that Native Hawaiians lived in a highly organized, self sufficient, subsistent social system based on communal land tenure with a sophisticated language and culture when the first Europeans arrived in 1778. It errantly insinuates that Native Hawaiians are not permitted under the United States Constitution to practice their ancient culture. They may do so every bit as much as the Amish or other groups. They may own land collectively as joint tenants. The paragraph also misleads by omitting the facts that Hawaiian Kings, not Europeans, abolished communal land tenure and religious taboos (kapu) by decree. [See Appendix page 3 paragraphs 2, 3, 4]

Paragraph three notes that a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawaii. It neglects to mention that the King established the government by conquest and force of arms in contrast to the bloodless overthrow of Queen Liliuokalani. In other words, if King Kamehameha's government was legitimate, then so was the successful 1893 overthrow. [See Appendix page 2 paragraph 1]

Paragraph four notes that from 1826 until 1893, the United States recognized the Kingdom of Hawaii as an independent nation with which it concluded a series of treaties and conventions. But the paragraph neglects to note that the United States extended recognition to the government that replaced Queen Liliuokalani in 1893. It treated both governments as equally legitimate under international law, as did other relations.

Paragraph five notes the more than 100 missionaries sent by the Congregational Church to the Kingdom of Hawaii between 1820 and 1850. But the missionaries did not cause mischief. They brought education, medicine, and civilization to Native Hawaiians for which no apology is due. [See Appendix page 2 paragraphs 2, 3]

Paragraph six falsely accuses United States Minister John L. Stevens as conspiring with non-Native Hawaiians to overthrow the indigenous and lawful Government of Hawaii. The Government, as previously explained, was not ''indigenous,'' but included non-Native Hawaiians. The latter were treated identically with Native Hawaiians and shared fully in the society and governance of the kingdom. Moreover, Minister Stevens, as a meticulous Senate Foreign Relations Committee report (the ''Morgan'' report) established, remained steadfastly neutral between the contesting political forces in Hawaii in 1893. [See Appendix page 4 paragraph 1]

Paragraph seven falsely indicts Minister Stevens and naval representatives of aiding and abetting the 1893 overthrow by invading the Kingdom of Hawaii and positioning themselves near the Hawaiian Government buildings and the Iolani Palace to intimidate Queen Liliuokalani and her Government. The ''Morgan'' report convincingly discredits that indictment. It demonstrated that United States forces were deployed solely to protect American citizens and property. [See Appendix page 4 paragraph 1]

Paragraph eight falsely insinuates that the overthrow of the Queen was supported only by American and European sugar planters, descendants of missionaries, and financiers. The Queen was abandoned by the majority of Hawaiian residents, including Native Hawaiians, because of her squalid plan to alter the constitution by illegal means to make the government more monarchical and less democratic. At best, the Queen was able to rally but a feeble resistance to defend her anti-constitutional plans. A Provisional Government was readily established and maintained without the threat or use of overwhelming force, in contrast to the force Kamehameha brandished to establish the Kingdom of Hawaii. [See Appendix page 1 paragraphs 1, 2, 3, 4, 5]

Paragraph nine falsely asserts that the extension of diplomatic recognition to the Provisional Government by United States Minister Stevens without the consent of the Native Hawaiian people or the lawful Government of Hawaii violated treaties and international law. The international community in general extended diplomatic recognition to the Provisional Government. That was consistent with international law, which acknowledges the right to overthrow a tyrannical government. The Provisional Government received the consent of Native Hawaiians every bit as much if not more than did King Kamehameha I in establishing the Kingdom of Hawaii by force in 1810. In addition, international law does not require the consent of an overthrown government before extending diplomatic recognition to its successor. Thus, the Dutch recognized the United States of America without the consent of Great Britain whose colonial regime had been overthrown. Similarly, the United States extended diplomatic recognition to the new government regime in the Philippines in 1986 headed by Cory Aquino without the consent of Ferdinand Marcos. Finally, sovereignty in Hawaii at the time of the 1893 overthrow resided in the Monarch, not the people. Native Hawaiian and non-Native Hawaiians alike possessed no legal right to withhold a transfer of sovereignty from Queen Liliuokalani to the Provisional Government. The Queen's own statement, reprinted in the Apology Resolution, confirms that sovereignty rested with the monarch, not the people. She neither asked nor received popular consent for yielding sovereignty to the United States. In any event, Native Hawaiians enjoyed more popular sovereignty than did non-Native Hawaiians. Accordingly, if the diplomatic recognition was wrong, both groups were equally wronged.

Paragraph ten falsely suggests that Queen Liliuokalani yielded her power to avoid bloodshed. She did so because her anti-constitutional plans had provoked popular anger or antagonism. The Queen forfeited the legitimacy necessary to sustain power. Even Cabinet members she had appointed abandoned her and advised surrender. [See Appendix page 1 paragraph 5]

The Queen's statement itself is cynical and false in many respects. She condemns the Provisional Government for acts done against the Constitution, whereas she had provoked her overthrow by embracing anti-constitutional plans for a more monarchical and less democratic government. The Queen falsely asserts that Minister Stevens had declared that United States troops would support the Provisional Government. The Minister insisted on strict United States military neutrality between contending parties. And the Queen audaciously insists that the United States should reinstall her to reign as an anti-democratic Monarch in lieu of a step towards a republican form of government, akin to Slobodan Milosevic's requesting the United States to restore him to power in Serbia after his replacement by a democratic dispensation. [See Appendix page 4 paragraph 2, 3]

Paragraph ten falsely insists that the overthrow of Queen Liliuokalani would have

failed for lack of arms and popular support but for the active support and intervention by the United States. The United States provided no arms to the insurgents. The United States did not encourage Hawaiians to join the insurrection. The United States remained strictly neutral throughout the time period and events that precipitated the end of Monarchy and the beginning of a republic in Hawaii. [See Appendix page 4 paragraph 2]

Paragraph eleven falsely insinuates that Minister Stevens proclaimed Hawaii to be a protectorate of the United States on February 1, 1893 as a coercive action. Minister Stevens had raised the American flag over government buildings at the request of the Provisional Government to deter threats to lives and property. The protectorate was requested, not imposed. The Harrison administration revoked the protectorate soon after, which refutes the Apology Resolution's assumption that the United States government conspired to annex Hawaii.

Paragraph twelve neglects to underscore that Democrat Congressman James Blount on behalf of Democrat President Grover Cleveland conducted an investigation of events that transpired under a Republican administration which both hoped to discredit for partisan political purposes. Blount's findings of abuse of diplomatic and military authority and United States responsibility for the overthrow of the Queen were meticulously discredited by the Morgan report the following year. [See Appendix page 4 paragraph 3]

Paragraph thirteen fails to note that the actions against the Minister and military commander were inspired by the partisan politics of Democrats casting aspersion on the predecessor Republican administration of Benjamin Harrison. [See Appendix page 4 paragraph 1]

Paragraph fourteen misleads by omitting President Grover Cleveland's partisan motivation for attacking the policies of his predecessor, President Benjamin Harrison, and the Morgan report that disproved President Cleveland's tenacious chronicling and characterizations of Queen Liliuokalani's overthrow. To trust in the impartiality of Democrat Cleveland to evaluate the policies and actions of Republican Harrison would be like trusting Democrat President William Jefferson Clinton to evaluate evenhandedly the presidency of Republican George H. W. Bush. [See Appendix page 4 paragraph 3]

Paragraph fifteen neglects that President Cleveland urged a restoration of the Hawaiian monarchy for partisan political reasons to discredit the Harrison administration and the Republican Party. [See Appendix page 4 paragraph 3]

Paragraph sixteen notes that the Provisional Government protested President Cleveland's celebration of the Hawaiian monarchy and remained in power. Both actions were morally and legally impeccable, and do not justify an apology.

Paragraph seventeen notes the hearings of the Senate Foreign Relations Committee into the 1893 overthrow; the Provisional Government's defense of Minister Stevens; and its recommendation of annexation. Neither the overthrow, nor Minister Stevens' actions, nor the Provisional Government's annexation recommendation was reproachable or justifies an apology. [See Appendix page 4 paragraphs 2, 3]

Paragraph eighteen notes that a treaty of annexation failed to command a two-thirds Senate majority, an event that does not justify an apology from the United States. The paragraph also falsely declares that the Provisional Government somehow duped the Committee over the role of the United States in the 1893 overthrow, as though the Senators could not think and evaluate for themselves. Finally, the paragraph wrongly condemns the overthrow as ''illegal.'' It was no more illegal in the eyes of domestic or international law than the overthrow of the British government in America by the United States in 1776. [See Appendix page 4 paragraphs 2,3]

Paragraph nineteen notes that the Provisional Government proclaimed itself the Republic of Hawaii on July 4, 1894. The proclamation was legally and otherwise correct. The declaration did not justify an apology by the United States. [See appendix page 4 paragraph 2,3]

Paragraph twenty declares that on January 24, 1895, the Queen while imprisoned was forced by the Republic of Hawaii to abdicate her throne. The forced abdication was thoroughly defensible. The Queen had not accepted the new dispensation after her overthrow. Thus, she was the equivalent of a Fifth Columnist to the legitimate government of Hawaii until abdication was forthcoming.

Paragraph twenty-one notes that in 1896, President William McKinley replaced Grover Cleveland. That democratic event provided no excuse for an apology.

Paragraph twenty-two notes that on July 7, 1898, in the wake of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawaii. The annexation was perfectly legal and enlightened. It was no justification for an apology.

Paragraph twenty-three notes that the Newlands Resolution occasioned the cession of sovereignty over the Hawaiian Islands to the United States. That is no cause for an apology. The same occurred in 1845 when Texas was annexed to the United States by joint resolution. The cession in both cases was with the consent of the lawful governments of Hawaii and Texas, respectively.

Paragraph twenty-four notes that the cession included a transfer of crown, government, and public lands without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government. But there as no race-based Native Hawaiian government, either then or previously. The government was for Native Hawaiians and non-Native Hawaiians alike. Further, the Newlands Resolution specified that the revenues of the ceded lands generally ''shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes.'' Compensation was not paid because nothing was taken from the inhabitants of Hawaii. Moreover, the United States assumed over 3.8 million dollars of Hawaii's public debt, largely incurred under the monarchy, after annexation. That debt burden amounts to twice the market value of the land the United States lawfully inherited [See Appendix page 3 paragraph 4]

Paragraph twenty-five notes that Congress ratified the annexation and cession of Hawaii, which required no apology.

Paragraph twenty-six notes that treaties between Hawaii and foreign nations were replaced by treaties between the United States and foreign nations, which is customary under international law when one sovereign replaces another. For example, Russia replaced the Soviet Union in its international treaty obligations following the disintegration of the USSR.

Paragraph twenty-seven notes that the Newlands Resolution effected the transaction between the Republic of Hawaii and the United States Government, an observation that required no apology.

Paragraph twenty-eight misleads by declaring that Native Hawaiians ''never directly relinquished their claims to their inherent sovereignty as a people over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.'' But sovereignty in the Kingdom of Hawaii resided in the monarch, not in the people. Further, the Kingdom was a government for all the inhabitants of Hawaii, not only for Native Hawaiians. Non-Native Hawaiians enjoyed a much inherent sovereignty as Native Hawaiians, and enjoyed an equal claim to national lands. Further, Native Hawaiians overwhelmingly voted for statehood in 1959, which constituted a virtual referendum on United States sovereignty. Finally, neither domestic nor international law recognizes a right to a plebiscite before a transfer of sovereignty. In America, for example, sovereignty was transferred from Great Britain to the United States without a plebiscite or the consent of the British-controlled colonial governments. The Akaka Bill's proponents themselves do not advocate a plebiscite to grant sovereignty to the Native Hawaiian people. [See Appendix page 3 paragraphs 2,3,4

Paragraph twenty-nine notes that on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawaii. The Act created a representative system of government, a great credit to the United States and far superior to what the residents of Hawaii had previously enjoyed under the Monarchy. [See Appendix page 5 paragraph 1]

Paragraph thirty notes that on August 21, 1959, Hawaii became the 50th State of the United States. But it omits that 94 percent of voters in a plebiscite supported statehood, including an overwhelming majority of Native Hawaiians. In other words, in 1959 Native Hawaiians freely chose the sovereignty of the United States. The elections could have been boycotted if independence were desired. [See, appendix page 5 paragraph 2]

Paragraph thirty-one declares that the health and well-being of Native Hawaiians is intrinsically tied to their deep feelings and attachment to land. But the same can be said of every racial, ethnic, religious, or cultural group. Scarlet O'Hara in Gone with the Wind was passionately tied to Tara. Further, the observation does not deny that the United States Constitution scrupulously protects the rights of Native Hawaiians to honor their feelings and attachments to land short of theft or trespass.

Paragraph thirty-two counterfactually declares that long-range economic and social changes in Hawaii over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people. The Native Hawaiian population declined throughout the years of the Kingdom, but, since annexation in 1898, the native population has achieved steady growth. Senator Daniel Inouye himself celebrated the health and prosperity of Hawaiians on the thirty-fifth anniversary of statehood in 1994: ''Hawaii remains one of the greatest examples of multiethnic society living in relative peace.'' Indeed, no fair-minded observer would maintain that Native Hawaiians would have been more prosperous, free, and culturally advanced if foreigners had never appeared in Hawaii and its people remained isolated from the progress of knowledge. The Polynesian nation of Tonga, which had a society and economy striking similar to Hawaii's in the 1840s, chose to preserve its Polynesian customs over progress. Today, Hawaii boasts a per capita income twenty times that of Tonga. Moreover, Native Hawaiians would probably have been swallowed up in the wave of Japanese colonialism had they not become citizens of the United States along with non-Native Hawaiians after annexation. [See Appendix page 5 paragraph 2]

Paragraph thirty-three misleads by failing to underscore that the United States Constitution fully protects the determination of

Native Hawaiians to practice and to pass on to future generations their cultural identity. The sole element of cultural identity that the United States cannot and will not tolerate is racial discrimination, whether practiced by whites against blacks during Jim Crow or by Native Hawaiians against non-Native Hawaiians today.

Paragraph thirty-four outlandishly asserts that the Apology Resolution is necessary to promote ''racial harmony and cultural understanding.'' Indeed, the Resolution has yielded the opposite by giving birth to the race-based Akaka Bill. As Senator Inouye acknowledged in 1994, Hawaii stands as a shining example of racial harmony and the success of America's legendary ''melting pot.'' [See Appendix page 5 paragraph 2]

Paragraph thirty-five notes an apology by the President of the United Church of Christ for the denomination's alleged complicity in the illegal overthrow of the Kingdom of Hawaii. But not a crumb of evidence in the Blount report or the Morgan report or Queen Liliuokalani's autobiography substantiates the Church's complicity. Further, the overthrow was as legal as was King Kamehameha's creation of the Kingdom by conquest in 1810 or the overthrow of the British colonial government in America by the United States. Finally, the paragraph is silent on the substance of the ''process of reconciliation'' between the Church and Native Hawaiians. [See Appendix page 2 paragraphs 1, 2, 3]

Paragraph thirty-six repeats the false indictment of the overthrow of the Kingdom as ''illegal.'' Congress absurdly expresses its ''deep regret'' to the Native Hawaiian people for bringing them unprecedented prosperity and freedom. As noted above, even Senator Inouye in 1994 conceded the spectacular Hawaiian success story after annexation and statehood. And since the State of Hawaii and Native Hawaiians have never been estranged—Native Hawaiians have invariably enjoyed equal or preferential rights under law—the idea of a need for reconciliation voiced in the paragraph is nonsense on stilts. [See Appendix page 2 paragraph 1]

Section 1, paragraph (1) of the Apology Resolution falsely characterizes the overthrow of the Kingdom of Hawaii as illegal, and falsely insinuates that sovereignty under the Kingdom rested with the Native Hawaiian people to the exclusion of non-Native Hawaiians. As elaborated above, sovereignty rested with the Monarch; and, Native Hawaiians and non-Native Hawaiians were equal in the eyes of the law and popular sovereignty.

Section 1, paragraph (2) ridiculously commends reconciliation where none is needed between the State of Hawaii and the United Church of Christ and Native Hawaiians. [See Appendix page 2 paragraphs 2, 3]

Section 1, paragraph (3) outlandishly apologizes to Native Hawaiians for bringing them the fruits of democracy and free enterprise. It also falsely suggests that Native Hawaiians to the exclusion of non-Natives enjoyed a right to self-determination when in fact all resident citizens of Hawaii were equal under the law.

Section 1, paragraphs (4) and (5) preposterously assert a need for reconciliation between the United States and the Native Hawaiian people when there has never been an estrangement. Indeed, a stunning majority of Native Hawaiians voters supported statehood in 1959 in a plebiscite. [See Appendix page 4 paragraph 3]

FLAG BURNING AMENDMENT

Mrs. FEINSTEIN. Mr. President, today, we celebrate Flag Day, honoring an enduring symbol of our democracy, of our shared values, of our allegiance to justice, and of those who have sacrificed to defend these principles.

On this day, I renew my support for S.J. Res. 12, a resolution that would let the people decide whether they want a constitutional amendment to protect the American flag.

Many moving images of the flag are etched into our Nation's collective conscience. We are all familiar with the image of marines raising the flag on Iwo Jima, with the New York firefighters raising the flag amid the debris of the World Trade Center and with the large flag that hung over the side of the Pentagon while part of it was rebuilt after 9/11.

It is more than a piece of material to so many of us. For our veterans, the flag represents what they fought for—democracy and freedom. Today there are almost 300,000 troops serving overseas, putting their lives on the line every day fighting for the fundamental principles that our flag symbolizes.

Last December, I traveled to Iraq and met with some of the brave men and women in the Armed Forces who are stationed there. We flew out of Baghdad on a C–130 that we shared with a flag-draped coffin being accompanied by a military escort.

This was very moving. It showed clearly how significant the meaning of the flag is and why protecting it is so important.

In the 1989 case Texas v. Johnson, the Supreme Court struck down a State law prohibiting the desecration of American flags in a manner that would be offensive to others. The Court held that the prohibition amounted to an impermissible content-based regulation of the first amendment right to free speech. Until this case, 48 of the 50 States had statutes preventing burning or otherwise defacing our flag.

After the Johnson case was decided, Congress passed the Flag Protection Act of 1989, which sought to ban flag desecration in a content-neutral way that would withstand judicial scrutiny. Nevertheless, the Supreme Court justices struck down that Federal statute as well.

It is clear that without a constitutional amendment there is no Federal statute protecting the flag which will pass constitutional muster.

S.J. Res. 12 would not ban flag burning. It would not ban flag desecration. This amendment would do one thing only: give Congress the opportunity to construct, deliberately and carefully, precise statutory language that clearly defines the contours of prohibitive conduct.

Some critics say that we are making a choice between trampling on the flag and trampling on the first amendment. I strongly disagree.

Protecting the flag will not prevent people from expressing their points of view. I believe a constitutional amendment returning to our flag the protected status it has had through most of this Nation's history, and that it deserves, is consistent with free speech.

I do not take amending the Constitution lightly. It is serious business and we need to tread carefully. But the Constitution is a living text. In all, it has been amended 27 times.

Securing protection for this powerful symbol of America would be an important, but very limited, change to the Constitution. It is a change that would leave both the flag and free speech safe.

Now it is time to give Americans the opportunity to amend the Constitution for something that we all agree is sacred to so many people all across this country. It is time to let the people decide.

COMBATING METHAMPHETAMINE EPIDEMIC

Mr. WYDEN. Mr. President, it is clear that legislation is needed to combat the methamphetamine epidemic sweeping my State and much of the country. This drug is destroying the lives of the people abusing it, their families and their communities. For years, the problem has been talked about, but not enough has been done.

To draw attention to Oregon's meth crisis, my colleague Senator SMITH and I will be periodically coming to the Senate floor to talk about the meth problem in our State.

Today, I would like to introduce a recent newspaper article from the Oregonian. The June 1 article describes a police bust of ''a massive methamphetamine lab capable of producing 400,000 doses of pure meth at a time—enough to intoxicate the entire adult population of Portland.'' The bust was one of the largest in Oregon history. This is the good news. The bad news is that this lab had been in business for at least five months—producing and distributing thousands of doses of meth.

Despite successes like this bust, the meth epidemic is getting worse, not better. Congress cannot wait any longer to act—we have a duty to address this crisis now. Enough is enough. It is critical that the Congress pass and the President sign the Combat Meth Act, on which Senator SMITH and I are original cosponsors. We must also fully fund the High Intensity Drug Trafficking Area program and the Byrne Grant program. These initiatives provide much needed reforms and much needed funds, which will help give communities in Oregon and across the Nation the tools they need to fight this terrible problem.

I ask unanimous consent that the full text of the Oregonian article be printed in the RECORD.

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

[From the Oregonian, June 1, 2005]

POLICE BUST METH SUPERLAB

(By Steve Suo)

Oregon police and federal agents have dismantled a massive methamphetamine lab capable of producing 400,000 doses of pure meth at a time—enough to intoxicate the entire adult population of Portland.

Officials said the ''superlab'' was discovered Thursday in the Willamette Valley town of Brownsville. The lab was at a mobile home on a rural, 10-acre property and was capable of producing 90 pounds of pure methamphetamine in a 48- to 72-hour period.

The lab had been in operation for at least five months, according to indictments filed in federal court in Portland.

The find, which U.S. Attorney Karin J. Immergut described as one of the largest labs in Oregon history, was extremely unusual in a number of ways.

U.S. Drug Enforcement Administration officials say superlabs operated by Mexican drug trafficking organizations now produce about 65 percent of all meth sold in the United States. But the number of superlabs seized in the United States has been falling dramatically in recent years. There were 53 seized last year, down from 244 in 2001, according to the DEA. Agency officials say the reason is that Mexican traffickers increasingly are moving their superlabs south of the border.

In Oregon, only a handful of superlabs—defined as a lab capable of producing at least 10 pounds a batch—are uncovered each year, according to Sgt. Joel Lujan of the Oregon State Police drug enforcement section.

''Most of the labs that we're finding are going to be the tweaker labs,'' Lujan said, referring to labs run by meth users for their own consumption. Those labs typically produce less than an ounce of meth at a time.

A single dose of meth is one-tenth of a gram. Ninety pounds of pure meth would make 400,000 doses; if cut to street purity of 50 percent, it would make 800,000 doses.

Drug agents arrested 15 people in connection with the Brownsville case, according to Immergut's office. Most were Mexican citizens living in Salem.

Details of how the investigation unfolded remained sketchy Tuesday. Salem Police Sgt. Pat Garrett, a member of the U.S. Drug Enforcement Administration task force involved in the case, said agents were investigating some of the suspects for several months. Surveillance led agents to the mobile home in Brownsville.

''We had people we believed to be involved in the production of methamphetamine who led us to the lab site,'' Garrett said.

Stains on the walls of the mobile home suggested the lab operators were making meth inside, but much of the lab's equipment and chemicals were in storage outside the home.

In addition to three pounds of finished meth and $195,000 in cash, agents found 150 pounds of iodine and 20 to 30 pounds of red phosphorous. Those chemicals make it possible to convert pseudoephedrine, a common cold remedy ingredient, to methamphetamine.

Garrett said the lab operators had finished their latest batch Wednesday.

''There was no more pseudoephedrine left,'' Garrett said. ''They had done their cook and finished the product and were waiting to do the next cook.''

Five 22-liter flasks, used to create the pseudoephedrine reaction, were found in a nearby rental truck, where they had apparently been stored.

Experts said each 22-liter flask can produce, at most, 15 pounds of meth at a time, for a total of 75 pounds. But Garrett said the lab operators had enough chemicals to make 90 pounds of meth if they ran the flasks simultaneously and replenished some as the reaction unfolded.

Five of the 15 people arrested were charged with conspiracy to manufacture meth. Sonia Violet Garcia, 20, of Brownsville, was arraigned Friday.

Four others, all Salem residents, are scheduled to make initial court appearances today: Arturo Arevalo-Cuevas, 22; Miguel Silva Chava, 26; Venancio Villalobos-Soto, 40; and Adriana Arevalo-Cuevas, 29.

NATIONAL HISTORY DAY

Mr. SARBANES. Mr. President, I am very pleased today to acknowledge two young Marylanders who were recently chosen to present and display their history projects in Washington, DC, as part of the National History Day program.

A basic knowledge of history is essential for our Nation's children to become informed participants in our democracy. With an eye toward increasing informed participation, National History Day—which as a national program celebrates its 25th anniversary this year—promotes history-related education in Maryland and throughout the Nation. Each year, the program allows students to use critical thinking and research skills and to create exhibits, documentaries and performances related to a particular historical subject. This year, 29 students were chosen from a pool of half a million to display their projects at various sites throughout the Nation's Capital.

Ryan Moore, a student at Mill Creek Middle School in Hughesville, Maryland, used his skills and critical thinking to create a project entitled ''Television: A Key Player in Communicating the Candidate's Message.'' He will display and present his project at the White House Visitor Center.

Lauren White, a student at Plum Point Middle School in Huntington, MD, similarly stood out from the crowd in creating a project entitled ''More Powerful than Words: The Photo Stories of Lewis Wickes Hine.'' She will display and present her project at the Smithsonian American Art Museum.

I congratulate both Lauren and Ryan as they are honored for their presentations, and commend them for their dedication, commitment, and creativity.

CONFIRMATION OF THOMAS B. GRIFFITH

Mrs. MURRAY. Mr. President, next week we will celebrate the 33rd anniversary of title IX. For 33 years, title IX has opened doors for women and girls in all aspects of education. I can say without reservation that I would not be a U.S. Senator today without this critical law.

Unfortunately, today the Senate confirmed a vehement opponent of title IX—Thomas Griffith—to the U.S. Court of Appeals for the District of Columbia Circuit. I voted against this nominee because of his record on title IX, the importance of the DC Circuit Court of Appeals to title IX and other civil rights laws, and his disregard for the rule of law in his own practice.

In 2002, Mr. Griffith served on the Commission on Opportunity in Athletics to evaluate whether and how current standards governing title IX's application to athletics should be revised. After the Department of Education spent nearly $1 million on the Commission, the Bush administration made the determination to make no changes to title IX in athletics. However, as a member of the Commission, Mr. Griffith made clear his opposition and hostility towards the law and its enforcement.

As a member of the Commission, Mr. Griffith proposed weakening the standard for meeting title IX's 25-year-old requirement of equality of opportunity in athletics for young women through the elimination of the ''substantial proportionality'' test for compliance. This test, one of the three alternative ways to comply with title IX, allows schools to comply by offering athletic opportunities to male and female students that are in proportion to each gender's representation in the student body of the school.

Mr. Griffith claimed this provision constitutes a quota in violation of title IX and the Constitution and asserted that ''[i]t is illegal, it is unfair, and it is wrong'' and even ''morally wrong.'' He made such extreme statements despite the decisions of no fewer than 6 Federal appeals courts which have upheld the legality of the test. In fact, none has ruled to the contrary. And when this fact was pointed out to him, he did not respect the decisions of all the Federal courts that have heard such cases—he said that ''the courts got it wrong.'' Eliminating this test would clearly undercut title IX's effectiveness—and the Commission agreed. It rejected the Griffith proposal by a lopsided vote of 11 to 4.

During his confirmation process, Griffith tried to change his position on title IX. Mr. Griffith now claims that he only wanted to eliminate the proportionality test because some have ''misused'' or ''misinterpreted'' the test. He now claims that the Commission recommendations regarding the proportionality test that he supported—in addition to his own proposal to eliminate the test—were ''modest'' or ''moderate.'' If these claims were so moderate, why were they rejected entirely by the Secretary of Education?

Mr. President, every Federal court of appeals that has considered this issue and every administration since 1979 have ruled that the three-part test is legally valid and does not impose quotas. Mr. Griffith's statements and actions put him in complete opposition to six Federal appeals courts. If that doesn't show that Mr. Griffith is out of the mainstream, I don't know what does.

The DC Circuit Court of Appeals is an especially important court. I believe that we must be careful when confirming individuals to serve lifetime appointments on this court, the second most powerful Federal court in the land. This court has exclusive jurisdiction over a broad array of Federal regulations, including title IX, and is

often the court of last resort in critical issues involving workers' rights, civil liberties, and environmental regulations. I am concerned that, given his prior record relating to title IX, Mr. Griffith may not be able to hear such cases with the impartiality required of a judge on one of our Nation's highest courts.

Mr. Griffith's hostility to title IX and the importance of the DC Circuit are not the only problems with this nominee. He has, on more than one occasion, failed to comply with the basic standards and practices of his profession by not paying bar dues and failing to get a license. He does not meet the high standards we must apply to any nominee for a lifetime appointment to the second highest court in the land.

The Senate has the constitutional duty to advise the President and decide whether to consent to his nominations to the Federal bench. I believe that this role is one of the Senate's greatest responsibilities. It is critical that Senators work with the President to find judicial nominees that meet the standards of fairness, even-handedness and adherence to the law that we expect of judges in our communities.

I believe the Senate has the duty to ensure each nominee has sufficient experience to sit in judgment of our fellow citizens, will be fair to all those who come before the court, will be even-handed in administering justice, and will protect the rights and liberties of all Americans. Unfortunately, Mr. Griffith's record shows his inability to serve in such a manner and, therefore, I opposed his nomination.

CHILD LABOR

Mr. HARKIN. Mr. President, it is with a sense of sorrow that I rise today to speak about the practice of abusive and exploitative child labor, as well as to recognize the International Labor Organization's World Day against Child Labor, which occurred on June 12. Unfortunately, hundreds of millions of children are still forced to work illegally for little or no pay. The ILO has set aside this day to give a voice to these helpless children who toil away in hazardous conditions.

We should not only think about these children on June 12. We should think about this last vestige of slavery every day. I have remained steadfast in my commitment to eliminate abusive and exploitative child labor. It was in 1992 that I first introduced a bill to ban all products made by abusive and exploitative child labor from entering the United States.

Since I introduced that bill, we have made some progress in raising awareness about this scourge. In June of 1999, ILO Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, was adopted unanimously in the ILO and here in the U.S. Senate. This was the first time ever that an ILO convention was approved without one dissenting vote. In record time the Senate ratified ILO Convention 182 with a bipartisan, 96–0 vote.

For the first time in history the world spoke with one voice in opposition to abusive and exploitative child labor. Countries from across the political, economic, and religious spectrum—from Jewish to Muslim, from Buddhists to Christians—came together to proclaim unequivocally that abusive and exploitative child labor is a practice which will not be tolerated and must be abolished.

Gone is the argument that abusive and exploitative child labor is an acceptable practice because of a country's economic circumstances. Gone is the argument that abusive and exploitative child labor is acceptable because of cultural tradition. And gone is the argument that abusive child labor is a necessary evil on the road to economic development. When this convention was approved, the United States and the international community as a whole laid those arguments to rest and laid the groundwork to begin the process of ending the scourge of abusive and exploitative child labor.

In 2001, Congressman ENGEL and I, along with the international chocolate industry, negotiated the Harkin-Engel Protocol. This agreement was precipitated by news reports that same year on the abuse of children on cocoa farms. We knew that if consumers learned about the brutal realities of cocoa production, their taste of chocolate would sour. Sales—and delicate African economies—would plummet. But that was not our goal. We wanted to stop child slavery, not chocolate production.

We viewed a legislative remedy not as a first resort but as a last resort. So, in good faith, we engaged the major chocolate companies in lengthy, intense negotiations. The result was the Harkin-Engel Protocol. The companies agreed to join with other stakeholders to produce an agreement for eliminating the worst forms of child and slave labor throughout the chain of chocolate production, and to do so expeditiously. They also agreed to implement an industrywide voluntary certification system to give a public accounting of labor practices in cocoa-growing countries. This would enable consumers to make better-informed choices.

There are an estimated 1.5 million small cocoa farms spread across four desperately poor countries in Africa. The Protocol established a public-private partnership enlisting government, industry, labor unions, nongovernmental organizations and consumer groups. The U.S. Government's role is to ensure that whatever certification plan emerges from this process is credible and effective in eliminating abusive child and slave-labor practices in the cocoa industry and ensuring the rehabilitation of the victims.

Unfortunately, the chocolate industry has been slow to meet all of the terms of the Protocol. July 1, 2005, is the deadline for full implementation of the certification system. That is just 3 short weeks away. While I remain hopeful that industry will continue to engage in the elimination of child labor beyond July 1, it is clear that the exact terms of the Protocol will not be met by July. No public certificate has yet been issued. And only small regions of Ghana and Cote d'Ivore have been monitored for child labor. Nevertheless, we are continuing discussions with the chocolate industry and continue to believe that the Harkin-Engel Protocol remains a possible framework for engagement to fix the enormous problem of abusive and exploitative child and slave labor in the cocoa-growing countries of West Africa.

Forced child labor remains a significant problem. According to the ILO, there are some 246 million child laborers in the world; 73 million of these are under the age of 10, and approximately 22,000 children die in work related accidents every year. Abusive and exploitative child labor is prevalent in many parts of the world, including here in America.

Abusive child labor should be a thing of the past. The United Sates should not continue to turn a blind eye to this scourge. It is time that we enforce our laws and international standards and ensure that countries are raising their standards on this issue. If we did our part to ensure that children were learning and not laboring, there would not be a need to have a day dedicated to end child labor.

WORLD WAR II BAKERS CREEK AIR CRASH

Mr. SPECTER Mr. President, I have sought recognition today to honor the 40 American soldiers who tragically perished at Bakers Creek, Queensland, Australia on June 14, 1943. Their deaths came as a result of the crash of a B–17C Flying Fortress, which proved to be the worst aviation disaster of the Southwest Pacific theatre during World War II. More soldiers died on that plane from my home State of Pennsylvania—six—than from any other State. These six men were: Pvt. James E. Finney; T/Sgt. Alfred H. Frezza; Sgt. Donald B. Kyper; Pfc. Frank S. Penksa; Sgt. Anthony Rudnick; and Cpl. Raymond H. Smith.

Only recently has the Air Force shared the details of this incident. As a result, most of the victims' families were left in the dark about the specifics surrounding their loved ones' deaths in World War II. For over a decade, the members of the Bakers Creek Memorial Association, based in Orrtanna, PA, led by George Washington University professor Robert S. Cutler, have worked to locate the victims' families and to notify them of the circumstances of the tragic mishap. Because of the dedication of this small group of military veterans, the families of 36 of the 40 casualties now

have been contacted, including those of: Private Finney, Technical Sergeant Frezza, Sergeant Kyper, and Private First Class Penksa. The Bakers Creek Memorial Association continues to search for family relatives of the remaining 4 victims.

The aircraft that crashed at Bakers Creek had been operated by the U.S. Army Air Force's 46th Transport Carrier Squadron, of the Fifth Air Force. The plane was one of several B–17 bomber aircraft that had been removed from combat status and converted to transport service. Shortly after takeoff from Mackay airport, the B–17C lost altitude, fell to earth in a slow and steady bank, and crashed in a ball of flames, 5 miles south at Bakers Creek. The 40 lost onboard included 6 crew members and 34 soldiers returning to their New Guinea battlefield posts after being on R&R leave in Australia. The crash left one survivor, Foye K. Roberts, an Army corporal at the time of the accident. Mr. Roberts recently passed away on February 4, 2004, at the age of 83.

I understand that retired Major General Robert H. Appleby, former commander of the Pennsylvania Army National Guard, who lost an uncle in the crash, and other members of the Bakers Creek Memorial Association, plan to place a wreath on June 14 at the National World War II Memorial in Washington, DC, to commemorate the 62nd Anniversary of the crash.

I applaud the members of the Bakers Creek Memorial Association and thank them for their efforts to help bring closure to the casualty families and public remembrance of the forty forgotten American soldiers of World War II in the Southwest Pacific, who perished at Bakers Creek in Australia on June 14, 1943.

ADDITIONAL STATEMENTS

HONORING HUGH O'BRIAN

● Mrs. BOXER. Mr. President, I rise today to acknowledge a special milestone for one of America's beloved entertainers and philanthropists. I am pleased to extend my sincere congratulations to Hugh O'Brian as he celebrates his 80th birthday.

Hugh O'Brian came into the public eye in the role of Wyatt Earp in the 1950s television series, ''The Life and Legend of Wyatt Earp.'' An accomplished stage and screen actor, he used his talents to bring history to life while expanding his influential role well beyond the theater and television to the broader stage.

In 1958, Mr. O'Brian established the organization HOBY, Hugh O'Brian Youth Leadership, aiming to provide support for young people striving for excellence. Over the past 47 years, HOBY has promoted extensive volunteerism, active global citizenship, and bright futures for young people. Through HOBY, Mr. O'Brian encourages local, national, and international communities to be responsive to the needs of our future leaders, empowering countless young people with knowledge and conscientious role models.

We are extremely fortunate that people like Hugh O'Brian are committed to bringing people together in the spirit of creative problem-solving and positive social change. In his many roles, Mr. O'Brian has led, inspired, and provided hope. On the occasion of his 80th birthday, please join me in congratulating Mr. Hugh O'Brian on his lifetime of accomplishment.●

RETIREMENT OF REVEREND DAVID L. TIEDE

● Mr. COLEMAN. Mr. President, for the past 64 years, Minnesota has had the good fortune to be blessed with Dr. David L. Tiede.

When I was first elected Mayor of St. Paul, the first thing I did was travel around and meet the men and women who made the city tick. I encountered ordinary men and women, working moms and dads, who had tipped the scales to make a real difference. It was the first time I truly realized the ability of a single person to change the world around him for the better. David L. Tiede is such a person. He is a leader and a visionary, and thanks to his presence, Minnesota will never be the same.

Recently, David announced that he is retiring from Luther Seminary. Times like this are bittersweet. It is bitter because we are bidding farewell to somebody who has meant so much to us. It is sweet because we have an opportunity to pay tribute to someone who has given us so much and deserves acclaim.

A native Minnesotan, David earned his bachelor's degree at Northfield's own St. Olaf College, only a few miles away from his home in Le Center. After earning his Master of Divinity degree from Luther Seminary in St. Paul, David left Minnesota to complete his graduate study and eventually earn his PhD.

After earning his doctorate from Harvard in 1971, Massachusetts' loss was Minnesota's gain as he returned to serve as the associate pastor of Trinity Lutheran Church in Minneapolis. At Trinity, David was not only a pastor, but also a teacher. Each Sunday he would teach Christ's lessons to his parish enabling them to realize God's calling and commission.

This is David's genius. Too often we are told that there is no right and wrong, that everything is subjective. The truth is that there is a right and a wrong, and there is something called the good life, which is not an easy life. It can be hard to do the right thing and can be even harder to lead others to do the right thing. However, that is exactly what David did.

David continued his commitment of teaching God's lessons when he joined Luther Seminary to teach the New Testament. Working first as a member of the faculty and then as president, David brought his expertise of teaching and leadership to Luther Seminary, giving the school a strong mission focus in the preparation of pastors and other professional leaders for the Lutheran church. David taught his students that a pastor without a mission is just a guy talking. In other words, David realized that the old saying that a leader without followers is just a guy taking a walk is as true in a church as it is in life.

I remember shortly after being elected mayor of St. Paul being invited by Dr. Tiede to be a part of a program launching Luther Seminary's new Islamic Studies program. It was worth noting that this was probably the first time that a Jewish mayor of a Roman Catholic city was speaking at a Lutheran seminary to inaugurate an Islamic studies program.

David's leadership is recognized throughout the theological world. In 2002, he became only the second Lutheran to be elected president of the Association of Theological Schools, an organization of accredited theological schools in the United States and Canada. In addition, he serves on the board of IN TRUST, Inc., which provides resources for governing boards of theological institutions and has received the Outstanding Executive Award from the Association of Lutheran Development Executives. This spring, Trinity Lutheran Seminary in Ohio awarded him the Joseph A. Sittler Award for Theological Leadership. Most recently, Augsburg College in Minneapolis named Dr. Tiede to the newly established Bernhard M. Christianson Chair of Religion, the college's first endowed chair. In this capacity, Dr. Tiede will be able to teach, write and continue his study of the New Testament even as he continues to work to strengthen the institutions of the Lutheran church.

David Tiede's retirement will be a great loss to Luther Seminary and Minnesota. Certainly he has been one of the finest, most skilled religious leaders in our state. David will be missed, but will never be forgotten as his teachings and philosophy have been passed on through the Luther Seminary to a new generation of religious leaders.●

TRIBUTE TO JIM BRENT

● Mr. CONRAD. Mr, President, I recognize Jim Brent, the Cass County Veterans Service Officer, who most ably serves veterans of my State's largest city of Fargo and the rest of Cass County. On June 23, 2005, various veterans organizations and friends of Jim will host an appreciation dinner and program at the Fargo Teamsters Hall. This upcoming event is a real testament to how much Jim has contributed to the veterans community and the Fargo community as a whole.

Jim Brent began his service to our great Nation in the United States

Army in 1967. He served as a Combat Infantry Soldier in Vietnam and as a Training Instructor at various worldwide locations between 1967 and 1977. He continued his honorable service to the Army in various capacities until his retirement from active duty in 1987.

Following his retirement from active duty Jim worked for Northwestern Mutual Life and Metropolitan Life Insurance in Bismarck, ND, and then served as the Commander and Club Manager of the American Legion Lloyd Spetz Post No. 1 until 1996.

In 1996, Jim took on a new opportunity to serve our Nation and his fellow veterans by accepting his current position as the Cass County Veterans Service Officer. In his role as Cass County's Service Officer, Jim has gained a reputation for tenacious advocacy on behalf of veterans. He is known for his abilities to work closely with veterans to determine any possible sources of assistance they may have earned from their honorable service in the Armed Forces. Jim and I have worked together to assist a number of veterans over the years, and I can personally attest to his strong advocacy on behalf of those veterans that need a helping hand. The veterans of my state have a true friend in Jim.

Jim Brent has spent the majority of his life serving others, including his country, family, friends, and most of all, veterans. He goes above and beyond the call of duty. Jim is a great person, wonderful friend, a true patriot. I am honored to know him.●

COMMENDING JUDGE ANNE E. THOMPSON

● Mr. CORIZINE. Mr. President, I would like to recognize Judge Anne E. Thompson for her most recent accolade, the New Jersey State Bar Foundation's Medal of Honor. This honor is well deserved, presented for Judge Thompson's long-standing dedication to New Jersey's legal system and her remarkable contributions to improve the justice system. Furthermore, I wish to convey my deepest appreciation for her many years of outstanding service as a Federal District Court Judge in New Jersey. She is a distinguished jurist who embodies the best of the New Jersey legal community. We are truly fortunate to have had someone like Judge Thompson on the federal bench for the past 25 years.

Judge Thompson has distinguished herself throughout her career as an outstanding lawyer and judge. In 1975 she was appointed by Governor Brendan T. Byrne to the position of Prosecutor of Mercer County and in 1979 she was appointed by President Jimmy Carter as a United States District Court Judge for the District of New Jersey. Judge Thompson served as Chief Judge of the United States District Court for the District of New Jersey. Judge Thompson formerly served as Vice-Chairwoman of the Mercer County Comprehensive Criminal Justice Planning Board and was appointed by the New Jersey Supreme Court to the Statewide Committee on Character and the Criminal Practice Committee. She also excelled as Chairperson of the New Jersey Supreme Court's Committee on Municipal Courts and the Juvenile Justice/Juvenile Standards Committee of the National District Attorneys Association. Judge Thompson presently serves as a member of the Criminal Law Drafting Committee for the National Conference of Bar Examiners and is a member of the committee responsible for oversight of the Administrative Office of the U.S. Courts in Washington, D.C.

Even more significant than her many achievements is the exceptional degree of integrity and character that Judge Thompson has displayed as a Federal judge. She is known for her wonderful courtroom demeanor and her willingness to approach each and every case with the utmost thoughtfulness and care. Indeed, her many accomplishments demonstrate the depth of her abilities as well as her understanding that all litigants must be treated fairly and with dignity and respect.

On behalf of the people of New Jersey, I would like to again express my congratulations to Judge Thompson for receiving the New Jersey State Bar Foundation's Medal of Honor. I offer my sincere gratitude for her many years of distinguished service as a Federal judge in New Jersey.●

COMMENDING JUDGE JOSEPH E. IRENAS

● Mr. CORIZINE. Mr. President, I would like recognize Judge Joseph E. Irenas as a 2005 recipient of the Justice William J. Brennan, Jr. Award. This award, which is given each year by the Association of the Federal Bar of the State of New Jersey, honors those whose actions have advanced the principles of free expression. I wish to convey my congratulations to Judge Irenas and my deepest appreciation for his many years of outstanding service as a Federal District Court Judge in New Jersey. He is a distinguished jurist who embodies the best of the New Jersey legal community.

Judge Irenas has distinguished himself as an outstanding judge and lawyer during his career. He is presently a member of the American Bar Association, American Law Institute, New Jersey Bar Association and Camden County Bar Association. He is also a Fellow of the Chartered Institute of Arbitrators (London) and a Fellow of the American Bar Foundation. From 1985 to 2002, Judge Irenas was an Adjunct Professor of Law at Rutgers University School of Law—Camden, NJ. He taught numerous courses, including Commercial Paper, Secured Transactions, Professional Responsibility, First Amendment, High Technology and The First Amendment, and Products Liability.

But even more important than his many achievements is the depth of character that Judge Irenas has displayed while on the bench. He has approached every case with thoughtfulness and care. Indeed, his many accolades reflect the strength of his abilities and his deep understanding that every case, even the smallest, matters greatly to all those who appear before him.

And so on behalf of the people of New Jersey, I would like to again express my congratulations to Judge Irenas for receiving the Brennan award and my sincere gratitude for his many years of distinguished service on the Federal bench in New Jersey.●

CONGRATULATING ELIZABETH KELLY AND SADIE HARTELL

● Mr. DODD. Mr. President, I rise to congratulate Elizabeth Kelly and Sadie Hartell, of Willington, CT. Both Elizabeth and Sadie will be presenting projects this week in Washington in celebration of National History Day this Wednesday, June 15.

Elizabeth and Sadie, both of whom attend Hall Memorial School, were selected as 2 of 19 students who will be presenting their projects this week. These students are part of a larger group of 2,300 finalists, who were selected from more than half a million participants in National History Day activities across our Nation.

National History Day is an initiative to promote the learning of history by American students in junior high and high schools. It encourages students not only to read their textbooks but to visit libraries, museums, and archives, and to create exhibits and participate in performances based on historical themes. This year marks the 25th anniversary of the National History Day initiative.

The students who competed in the National History Day competition have spent months doing in-depth research on topics they have selected, and preparing their presentations.

Elizabeth Kelly's project is titled, ''The Second American Revolution: Elizabeth Cady Stanton and Her Fight.'' As part of her research, Elizabeth interviewed Colin Jenkins, a relative of Stanton's, who gave her original letters by Stanton that Elizabeth incorporated into a 10-minute dramatic performance, which she will be presenting at the National Museum of American History.

Sadie Hartell's project is titled, ''The Beatles Communicating to Their Generation.''

She will be presenting an exhibit and showing a short movie. Sadie did her research at both the University of Connecticut Music Library, as well as at Hall Memorial's school library. Her project, which she will be presenting at the Renwick Gallery of the Smithsonian American Art Museum, focuses on how the Beatles used their music to express sentiments about the Vietnam War.

I congratulate Elizabeth and Sadie, as well as all those students who participated in National History Day. Knowledge of our history as a nation is critical to our understanding of our present, and our future. They have both demonstrated tremendous dedication and commitment, and it is my hope that their achievements inspire others to learn more about our Nation's rich and storied history. I wish them much success in their studies and their future endeavors.●

HONORING ROBERT M. LA FOLLETTE, SR.

● Mr. FEINGOLD. Mr. President, I say a few words to honor the extraordinary life of Robert M. La Follette Sr., on the 150th anniversary of his birth. Throughout his life, La Follette was revered for his tireless and deeply principled service to the people of Wisconsin and to the people of the United States. His dogged, full-steam-ahead dedication to his life's work earned him the nickname ''Fighting Bob.''

Robert Marion La Follette, Sr., was born on June 14, 1855, in Primrose, a small town southwest of Madison in Dane County. He graduated from the University of Wisconsin Law School in 1879 and, after being admitted to the state bar, began his long career in public service as Dane County district attorney.

La Follette was elected to the United States House of Representatives in 1884, and he served three terms as a member of that body, where he was a member of the Ways and Means Committee.

After losing his campaign for reelection in 1890, La Follette returned to Wisconsin and continued to serve the people of my state as a judge. Upon his exit from Washington D.C., a reporter wrote, La Follette ''is popular at home, popular with his colleagues, and popular in the House. He is so good a fellow that even his enemies like him.''

He was elected the 20th Governor of Wisconsin in 1900. He served in that office until 1906, when he stepped down in order to serve the people of Wisconsin in the United States Senate, where he remained until his death in 1925.

As a founder of the national progressive movement, La Follette championed political reform, civil rights and workers' and women's rights throughout his career. As governor, he advanced an agenda that included the country's first workers compensation system, direct election of United States Senators, and railroad rate and tax reforms. Collectively, these reforms would become known as the ''Wisconsin Idea.''

His terms in the House of Representatives and the Senate were spent fighting for women's rights, working to limit the power of monopolies, opposing pork barrel legislation, and rooting out political corruption. La Follette also championed electoral reforms, and he brought his support of the direct election of United States Senators to this body. His efforts were brought to fruition with the ratification of the 17th amendment in 1913. Fighting Bob also worked tirelessly to hold the government accountable, and was a key figure in exposing the Teapot Dome Scandal.

La Follette earned the respect of such notable Americans as Frederick Douglass, Booker T. Washington and Harriet Tubman Upton for making civil rights one of his trademark issues. At a speech before the 1886 graduating class of Howard University, La Follette said, ''We are one people, one by truth, one almost by blood. Our lives run side by side, our ashes rest in the same soil. [Seize] the waiting world of opportunity. Separatism is snobbish stupidity, it is supreme folly, to talk of non-contact, or exclusion!''

La Follette ran for President three times, twice as a Republican and once on the Progressive ticket. In 1924, as the Progressive candidate for president, La Follette garnered more than 17 percent of the popular vote and carried the state of Wisconsin.

La Follette's years of public service were not without controversy. In 1917, he filibustered a bill to allow the arming of United States merchant ships in response to a series of German submarine attacks. His filibuster was successful in blocking passage of this bill in the closing hours of the 64th Congress. Soon after, La Follette was one of only six Senators who voted against U.S. entry into World War I.

Fighting Bob was outspoken in his belief that the right to free speech did not end when war began. In the fall of 1917, La Follette gave a speech about the war in Minnesota, and he was misquoted in press reports as saying that he supported the sinking of the Lusitania. The Wisconsin State Legislature condemned his supposed statement as treason, and some of La Follette's Senate colleagues introduced a resolution to expel him. In response to this action, he delivered his seminal floor address, ''Free Speech in Wartime,'' on October 16, 1917. If you listen closely, you can almost hear his strong voice echoing through this Chamber as he said:

> Mr. President, our government, above all others, is founded on the right of the people freely to discuss all matters pertaining to their government, in war not less than in peace, for in this government, the people are the rulers in war no less than in peace.

Of the expulsion petition filed against him, La Follette said:

> I am aware, Mr. President, that in pursuance of this general campaign of vilification and attempted intimidation, requests from various individuals and certain organizations have been submitted to the Senate for my expulsion from this body, and that such requests have been referred to and considered by one of the Committees of the Senate.
>
> If I alone had been made the victim of these attacks, I should not take one moment of the Senate's time for their consideration, and I believe that other Senators who have been unjustly and unfairly assailed, as I have been, hold the same attitude upon this that I do. Neither the clamor of the mob nor the voice of power will ever turn me by the breadth of a hair from the course I mark out for myself, guided by such knowledge as I can obtain and controlled and directed by a solemn conviction of right and duty.

This powerful speech led to a Senate investigation of whether La Follette's conduct constituted treason. In 1919, following the end of World War I, the Senate dropped its investigation and reimbursed La Follette for the legal fees he incurred as a result of the expulsion petition and corresponding investigation. This incident is indicative of Fighting Bob's commitment to his ideals and of his tenacious spirit.

La Follette died on June 18, 1925, in Washington, D.C., while serving Wisconsin in this body. His daughter noted, ''His passing was mysteriously peaceful for one who had stood so long on the battle line.'' Mourners visited the Wisconsin Capitol to view his body, and paid respects in a crowd nearing 50,000 people. La Follette's son, Robert M. La Follette, Jr., was appointed to his father's seat, and went on to be elected in his own right and to serve in this body for more than 20 years, following the progressive path blazed by his father.

La Follette has been honored a number of times for his unwavering commitment to his ideals and for his service to the people of Wisconsin and of the United States.

Recently, I was proud to support Senate passage of a bill introduced in the other body by Congresswoman TAMMY BALDWIN that will name the post office at 215 Martin Luther King, Jr., Boulevard in Madison in La Follette's honor. I commend Congresswoman BALDWIN for her efforts to pass this bill.

The Library of Congress recognized La Follette in 1985 by naming the Congressional Research Service reading room in the Madison Building in honor of both Fighting Bob and his son, Robert, Jr., for their shared commitment to the development of a legislative research service to support the United States Congress. In his autobiography, Fighting Bob noted that, as governor of Wisconsin, he ''made it a . . . policy to bring all the reserves of knowledge and inspiration of the university more fully to the service of the people. . . . Many of the university staff are now in state service, and a bureau of investigation and research established as a legislative reference library . . . has proved of the greatest assistance to the legislature in furnishing the latest and best thought of the advanced students of government in this and other countries.'' He went on to call this service ''a model which the federal government and ultimately every state in the union will follow.'' Thus, the legislative reference service that La Follette created in Madison served as the basis for his work to create the Congressional Research Service at the Library of Congress.

The La Follette Reading Room was dedicated on March 5, 1985, the 100th

anniversary of Fighting Bob being sworn in for his first term as a Member of Congress.

Across this magnificent Capitol in National Statuary Hall, Fighting Bob is forever immortalized in white marble, still proudly representing the state of Wisconsin. His statue resides in the Old House Chamber, now known as National Statuary Hall, among those of other notable figures who have made their marks in American history. One of the few seated statues is that of Fighting Bob. Though he is sitting, he is shown with one foot forward, and one hand on the arm of his chair, as if he is about to leap to his feet and begin a robust speech.

When then-Senator John F. Kennedy's five-member Special Committee on the Senate Reception Room chose La Follette as one of the ''Five Outstanding Senators'' whose portraits would hang outside of this Chamber in the Senate reception room, he was described as being a ''ceaseless battler for the underprivileged'' and a ''courageous independent.'' Today, his painting still hangs just outside this Chamber, where it bears witness to the proceedings of this body—and, perhaps, challenges his successors here to continue fighting for the social and government reforms he championed.

To honor Robert M. La Follette, Sr., on the sesquicentennial of his birth, last week I introduced three pieces of legislation. I am pleased to be joined in this effort by the senior Senator from Wisconsin, Senator KOHL. The first is a resolution celebrating this event and recognizing the importance of La Follette's important contributions to the Progressive movement, the state of Wisconsin, and the United States of America.

We also introduced a bill that would direct the Secretary of the Treasury to mint coins to commemorate Fighting Bob's life and legacy. Our third bill would authorize the President to posthumously award a gold medal on behalf of Congress to Robert M. La Follette, Sr. The minting of a commemorative coin and the awarding of the Congressional Gold Medal would be fitting tributes to the memory of Robert M. La Follette, Sr., and to his deeply held beliefs and long record of service to his state and to his country.

I thank the chairman and ranking member of the Judiciary Committee for their assistance in passing our resolution honoring Fighting Bob today, on the 150th anniversary of his birth. And I thank my colleagues for honoring Robert M. La Follette, Sr.'s character, his integrity, his deep commitment to Progressive causes, and his unwillingness to waver from doing what he thought was right. No one has fought harder for the common man and woman, and against corruption and cronyism, than ''Fighting Bob'' La Follette, and I consider it a privilege to speak in the same Chamber, and serve the same great State, as he did.●

TRIBUTE TO TIFFANY MASON AS A SENATE PAGE

● Mr. LEVIN. Mr. President, I would like to take this opportunity to thank Tiffany Mason, the most recent Senate page from Michigan, for her hard work, dedication, and enthusiasm in carrying out her daily responsibilities over the last several months. It is, in part, through the efforts of our Senate pages that the Senate is able to efficiently carry out its important work, which includes receiving messages from the President and allowing for the introduction of bills. Pages are also asked to complete a variety of other important tasks when the Senate is in session.

Senator Daniel Webster has the distinction of selecting the first Senate page more than 150 years ago. In those days, as is the case today, a page was chosen and sponsored by a Senator. During his or her time in Washington, a page is not only expected to serve the needs of the Senate but also to attend school and complete the necessary requirements of high school juniors. Thirty pages from across the country serve as Senate pages each session. In May 1971 the first two female pages were selected to serve in the Senate.

Tiffany is a part of a fine tradition and a select group that has had the great privilege to serve as a U.S. Senate page. She has proven through her work in the Senate and through her many successes in the past that she, like many of her peers, are some of our Nation's best and brightest. Tiffany has received several awards and has participated in many different activities over the course of her high school career. These experiences have served her well and will continue to do so as she continues to learn, grow, and mature.

The work that has been done by this page class is valued by all in the Senate. I know my colleagues join me in thanking Tiffany Mason and the rest of the page class for a job well done. I wish her the very best in the future.●

DEPENDENCY COURT INTERVENTION PROGRAM

● Mr. NELSON Of Florida. Mr. President, I rise today to applaud the work of the Dependency Court Intervention Program for Family Violence in Miami, FL. The Dependency Court Intervention Program for Family Violence is designed to break the cycle of violence that occurs all too often in families suffering from domestic violence.

Approximately 6 years ago, Judge Lederman, from Florida's 11th Judicial Circuit, proposed to the Justice Department a new approach to dealing with domestic violence and dependency court proceedings. This new approach was the Dependency Court Intervention Program. This court program, in addition to assisting victims of domestic violence through the legal system, provides assistance and support to a parent attempting to rebuild his/her life and provides a secure home for their children.

Towards this end, the program has developed collaborative relationships between the child welfare system, battered women advocates, mental health and victim service providers, and law enforcement.

Again, I praise Judge Lederman and the other Floridians involved with the good work done on behalf of victims and families in the Dependency Intervention Program for Family Violence.●

TRIBUTE TO MAJOR GENERAL THOMAS J. ROMIG

● Mr. ROBERTS. Mr. President, I rise today to recognize and pay tribute to Major General Thomas J. Romig, The Judge Advocate General of the Army, for his many years of exceptionally meritorious service to our country. General Romig will retire from the Army on September 30, 2005, having completed a distinguished 34-year career. We owe him a debt of gratitude for his many contributions to his Nation and the legal profession, particularly during operations in support of the Global War on Terrorism.

As The Judge Advocate General since October 1, 2001, General Romig served as the legal advisor to the Chief of Staff of the Army and the Army Staff, as well as the military legal advisor to the Secretary of the Army and the Assistant Secretaries. As such, he has been at the forefront of the most pressing issues affecting our Nation and the military today.

General Romig's inventive and steady leadership is reflected every day in the superb legal services provided by each and every judge advocate, civilian attorney, legal administrator, paralegal, and legal specialist of The Judge Advocate General's Corps. His professional legal advice has demonstrated his abiding concern for the Army's mission and his sincere interest in the welfare of soldiers and their families. The Army and The Judge Advocate General's Corps have benefited immeasurably from his leadership.

General Romig was born in 1948 at Manhattan, KS. He graduated from Manhattan High School in 1966 and attended Kansas State University where he received a Bachelor of Science degree in 1970. He was commissioned through the ROTC program and entered active duty in October 1971. After graduating from the Infantry Officer Basic and Airborne Courses, he served almost 6 years as a Military Intelligence Officer at Fort Bragg, NC, and Fort Huachuca, AZ.

In 1977, General Romig was selected for the Funded Legal Education Program and attended the University of Santa Clara School of Law, Santa Clara, CA, where he graduated with honors in 1980. During his 25 years of distinguished service as a judge advocate, General Romig served in many positions of great responsibility, including service as a prosecutor with

the 2d Armored Division; an instructor at The Judge Advocate General's School; the Staff Judge Advocate of the 32d Army Air Defense Command; the Chief of the Personnel, Plans, and Training Office; the Staff Judge Advocate of V Corps; the Assistant Judge Advocate General for Civil Law and Litigation; and the Assistant Judge Advocate General for Military Law and Operations.

He reached the top of his profession when he was appointed the 36th Judge Advocate General of the Army. General Romig is now completing his remarkable military career.

I know all my colleagues join me in saluting Major General Thomas J. Romig and his wife Pamela for their many years of truly outstanding service to The Judge Advocate General's Corps, the U.S. Army, and our country.●

SERVICE OF JOHN L. ALEXANDER

● Mr. VITTER. Mr. President, I rise today to recognize John L. Alexander, Jefferson Parish Public Schools Social Studies consultant and Close Up Director of Louisiana. Devoting his life to education, Mr. Alexander will retire from service on June 30, 2005. Today, I want to take a moment to offer Mr. Alexander my deep appreciation for his dedication to the families of Jefferson Parish and the entire State of Louisiana.

Mr. Alexander began his teaching career in 1967 in the Orleans Parish school system. In 1968, he acted as assistant principal and teacher at St. Philip Neri School in Metairie, LA. And in 1975, he began a 30-year career as a social studies consultant for the Jefferson Parish Public School system.

Acting as the Louisiana Director of the Close Up Foundation, Mr. Alexander has led Louisiana's involvement in the Nation's largest nonprofit citizenship education organization. In honor of Mr. Alexander's excellent example of citizenship and service, I come to the Senate floor today to express my gratitude to John Alexander for his many years of service to Louisiana.●

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.)

MESSAGE FROM THE HOUSE

At 2:31 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1042. An act to amend the Federal Credit Union Act to clarify the definition of net worth under certain circumstances for purposes of the prompt corrective action authority of the National Credit Union Administration Board, and for other purposes.

H.R. 1812. An act to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.

H.R. 2326. An act to designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the ''Floyd Lupton Post Office''.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 47. Concurrent resolution commending the establishment in College Point, New York, of the first free, public kindergarten in the United States.

H. Con. Res. 163. Concurrent resolution honoring the Sigma Chi Fraternity on the occasion of its 150th Anniversary.

The message further announced that the House has passed the following bill, without amendment:

S. 643. An act to amend the Agricultural Credit Act of 1987 to reauthorize State mediation programs.

MEASURES REFERRED

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

H.R. 1812. An act to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 2326. An act to designate the facility of the United States Postal Service located at 614 West Old County Road in Belhaven, North Carolina, as the ''Floyd Lupton Post Office''; to the Committee on Homeland Security and Governmental Affairs.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 47. Concurrent resolution commending the establishment in College Point, New York, of the first kindergarten in the United States; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 163. Concurrent resolution honoring the Sigma Chi Fraternity on the occasion of its 150th Anniversary; to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

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

EC–2604. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Commission's Office of Inspector General Semiannual Report to Congress for the period from October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2605. A communication from the Acting Director, Office of Personnel Management, transmitting, pursuant to law, the Semiannual Report of the Inspector General and the Management Response for the period of October 1, 2004 to March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2606. A communication from the Inspector General, United States Railroad Retirement Board, transmitting, pursuant to law, the Board's Semiannual Report for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2607. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's Office of Inspector General Semiannual Report for the period of October 1, 2004 to March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2608. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, the Administration's Inspector General Semiannual Report for October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2609. A communication from the Administrator, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the Administration's Report on Competitive Sourcing Results for Fiscal Year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–2610. A communication from the Executive Assistant to the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report entitled ''Facilities Management Reorganization Is Progressing, but Funding Remains a Challenge''; to the Committee on Homeland Security and Governmental Affairs.

EC–2611. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, the Commission's Inspector General Semiannual Report for the period October 1, 2004–March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2612. A communication from the Chairman, National Endowment for the Arts, transmitting, pursuant to law, the Semiannual Report of the Inspector General and the Chairman's Semiannual Report on Final Action Resulting from Audit Reports for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2613. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's Inspector General Semiannual Report for the period of September 30, 2004 through April 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2614. A communication from the Chairman, Consumer Product Safety Commission, transmitting, pursuant to law, the Commission's Semiannual Report of the Inspector General for the period of October 1, 2004 to March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2615. A communication from the Administrator, U.S. Agency for International Development, transmitting, pursuant to law, the Semiannual Report of the Office of Inspector General for the period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2616. A communication from the Chairman, Board of Governors, United States Postal Service, transmitting, pursuant to law, the Semiannual Report of the Office of Inspector General and the Postal Service management response to the report for the period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2617. A communication from the Chair, Equal Employment Opportunity Commission, transmitting, pursuant to law, the Inspector General's Semiannual Report and Management's Report for the period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2618. A communication from the Secretary of Education, transmitting, pursuant to law, the Semiannual Report on Audit Follow-Up covering the period of October 1, 2004 through March 31 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2619. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the Semiannual Report of the Office of the Inspector General for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2620. A communication from the Chairman, National Science Board, transmitting, pursuant to law, the National Science Foundation (NSF) Inspector General's Semiannual Report for the period from October 1, 2004 through March 31, 2005 and reports on final actions on audits prepared by NSF management and approved by the National Science Board; to the Committee on Homeland Security and Governmental Affairs.

EC–2621. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, the Agency's Office of Inspector General Semiannual Report for the period of October 1, 2004 through March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2622. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled ''Review of the School Transit Subsidy Program Administered by the District of Columbia Department of Transportation''; to the Committee on Homeland Security and Governmental Affairs.

EC–2623. A communication from the General Counsel, Federal Retirement Thrift Investment Board, transmitting, pursuant to law the report of a rule entitled ''5 CFR Parts 1600, 1601, 1604, 1605 1606, 1620, 1640, 1645, 1650, 1651, 1653, 1655, and 1690, Various Changes to the Thrift Savings Plan'' received on June 14, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–2624. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 2004 Annual Report for the Department's Office of Surface Mining Reclamation and Enforcement to the Committee on Energy and Natural Resources.

EC–2625. A communication from the Office of the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting, pursuant to law, a report relative to the impacts of the Compacts of Free Association with the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 1230. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of the Highway Trust Fund and the Aquatic Resources Trust Fund expenditure authority and related taxes and to provide for excise tax reform and simplification, and for other purposes (Rept. No. 109–82).

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. GRASSLEY:

S. 1230. An original bill to amend the Internal Revenue Code of 1986 to provide for the extension of the Highway Trust Fund and the Aquatic Resources Trust Fund expenditure authority and related taxes and to provide for excise tax reform and simplification, and for other purposes; from the Committee on Finance; placed on the calendar.

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1231. A bill to amend the Indian Self-Determination and Education Assistance Act to modify provisions relating to the National Fund for Excellence in American Indian Education; to the Committee on Indian Affairs.

By Mr. LAUTENBERG:

S. 1232. A bill to amend the Clean Air Act to increase production and use of renewable fuel and to increase the energy independence of the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1233. A bill for the relief of Diana Gecaj Engstrom; to the Committee on the Judiciary.

By Mr. CRAIG:

S. 1234. A bill to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

By Mr. CRAIG:

S. 1235. A bill to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRAPO (for himself, Mr. BAUCUS, Mr. BOND, Mr. BURNS, and Mr. AKAKA):

S. 1236. A bill to ensure the availability of spectrum to amateur radio operators; to the Committee on Commerce, Science, and Transportation.

By Mr. MCCAIN (for himself and Mr. LIEBERMAN):

S. 1237. A bill to expedite the transition to digital television while helping consumers to continue to use their analog televisions; to the Committee on Finance.

By Mrs. FEINSTEIN (for herself, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1238. A bill to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself, Mr. DORGAN, and Mr. BAUCUS):

S. 1239. A bill to amend the Indian Health Care Improvement Act to permit the Indian Health Service, an Indian tribe, a tribal organization, or an urban Indian organization to pay the monthly part D premium of eligible medicare beneficiaries; to the Committee on Indian Affairs.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 1240. A bill to amend the Internal Revenue Code of 1986 to allow an investment tax credit for the purchase of trucks with new diesel engine technologies, and for other purposes; to the Committee on Finance.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1241. A bill to suspend temporarily the duty on fixed ratio speed changers for truck-mounted concrete mixers; to the Committee on Finance.

By Mr. CORNYN:

S. 1242. A bill to suspend temporarily the duty on lutetium oxide; to the Committee on Finance.

By Mr. CORNYN:

S. 1243. A bill to reduce temporarily the duty on triethylene glycol bis[3-(3-tert-butyl-4-hydroxy-5-methylphenyl)propionate]; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mrs. LINCOLN):

S. 1244. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term needs; to the Committee on Finance.

By Mr. CORNYN:

S. 1245. A bill to suspend temporarily the duty on phosphoric acid, lanthanum salt, cerium terbium-doped; to the Committee on Finance.

By Mr. DODD (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. FEINGOLD):

S. 1246. A bill to require the Secretary of Education to revise regulations regarding student loan payment deferment with respect to borrowers who are in postgraduate medical or dental internship, residency, or fellowship programs; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mr. LEVIN, Ms. CANTWELL, and Mr. KERRY):

S. 1247. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU (for herself, Mr. LEVIN, and Mr. SCHUMER):

S. 1248. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Homeland Security and Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. FEINGOLD:

S. Res. 171. A resolution expressing the sense of the Senate that the President should submit to Congress a report on the time frame for the withdrawal of United States troops from Iraq; to the Committee on Armed Services.

ADDITIONAL COSPONSORS

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Arkansas

(Mrs. LINCOLN) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 331

At the request of Mr. JOHNSON, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 331, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 440

At the request of Mr. BUNNING, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 440, a bill to amend title XIX of the Social Security Act to include podiatrists as physicians for purposes of covering physicians services under the medicaid program.

S. 471

At the request of Mr. SPECTER, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 471, a bill to amend the Public Health Service Act to provide for human embryonic stem cell research.

S. 576

At the request of Mr. BYRD, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 576, a bill to restore the prohibition on the commercial sale and slaughter of wild free-roaming horses and burros.

S. 584

At the request of Mr. SALAZAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 584, a bill to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park.

S. 635

At the request of Mr. SANTORUM, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 637

At the request of Mr. DURBIN, the name of the Senator from Wisconsin (Mr. KOHL) was added as a cosponsor of S. 637, a bill to establish a national health program administered by the Office of Personnel Management to offer health benefits plans to individuals who are not Federal employees, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 678

At the request of Mr. REID, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 678, a bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication.

S. 756

At the request of Mr. BENNETT, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 756, a bill to amend the Public Health Service Act to enhance public and health professional awareness and understanding of lupus and to strengthen the Nation's research efforts to identify the causes and cure of lupus.

S. 795

At the request of Mr. DODD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 795, a bill to provide driver safety grants to States with graduated driver licensing laws that meet certain minimum requirements.

S. 883

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 883, a bill to direct the Secretary of State to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity in developing countries, while promoting economic development, and for other purposes.

S. 887

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 887, a bill to amend the Energy Policy Act of 1992 to direct the Secretary of Energy to carry out activities that promote the adoption of technologies that reduce greenhouse gas intensity and to provide credit-based financial assistance and investment protection for projects that employ advanced climate technologies or systems, and for other purposes.

S. 926

At the request of Mr. INHOFE, the names of the Senator from Virginia (Mr. ALLEN) and the Senator from Texas (Mrs. HUTCHISON) were added as cosponsors of S. 926, a bill to amend the Internal Revenue Code of 1986 to provide that the credit for producing fuel from a nonconventional source shall apply to gas produced onshore from a formation more than 15,000 feet deep.

S. 962

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 962, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued to finance certain energy projects, and for other purposes.

S. 1010

At the request of Mr. SANTORUM, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1010, a bill to amend title XVIII of the Social Security Act to improve patient access to, and utilization of, the colorectal cancer screening benefit under the Medicare Program.

S. 1047

At the request of Mr. SUNUNU, the names of the Senator from Idaho (Mr. CRAIG), the Senator from Texas (Mr. CORNYN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1066

At the request of Mr. VOINOVICH, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1066, a bill to authorize the States (and subdivisions thereof), the District of Columbia, territories, and possessions of the United States to provide certain tax incentives to any person for economic development purposes.

S. 1138

At the request of Mr. ALLEN, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1138, a bill to authorize the placement of a monument in Arlington National Cemetery honoring the veterans who fought in World War II as members of Army Ranger Battalions.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1197

At the request of Mr. BIDEN, the names of the Senator from Connecticut (Mr. DODD), the Senator from New York (Mrs. CLINTON) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1203

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 1203, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the investment in greenhouse gas intensity reduction projects, and for other purposes.

S. 1204

At the request of Mr. DODD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1204, a bill to encourage students to pursue graduate education and to assist students in affording graduate education.

S. 1216

At the request of Mr. CORZINE, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1216, a bill to require financial institutions and financial service providers to notify customers of the unauthorized use of personal financial information, and for other purposes.

S.J. RES. 19

At the request of Mr. BROWNBACK, the names of the Senator from Delaware

(Mr. BIDEN), the Senator from Maine (Ms. COLLINS), the Senator from Massachusetts (Mr. KERRY), the Senator from California (Mrs. FEINSTEIN), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Ms. MIKULSKI), the Senator from Maryland (Mr. SARBANES) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S.J. Res. 19, a joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

S. CON. RES. 37

At the request of Mr. DEWINE, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Iowa (Mr. HARKIN) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. Con. Res. 37, a concurrent resolution honoring the life of Sister Dorothy Stang.

S. RES. 39

At the request of Ms. LANDRIEU, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Res. 39, a resolution apologizing to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

At the request of Mr. VOINOVICH, his name was added as a cosponsor of S. Res. 39, supra.

At the request of Mr. REED, his name was added as a cosponsor of S. Res. 39, supra.

At the request of Ms. MURKOWSKI, her name was added as a cosponsor of S. Res. 39, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 39, supra.

S. RES. 104

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

S. RES. 154

At the request of Mr. BIDEN, the names of the Senator from Nebraska (Mr. NELSON), the Senator from Delaware (Mr. CARPER) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. Res. 154, a resolution designating October 21, 2005 as ''National Mammography Day''.

S. RES. 155

At the request of Mr. BIDEN, the names of the Senator from Kentucky (Mr. BUNNING), the Senator from New York (Mrs. CLINTON), the Senator from Minnesota (Mr. DAYTON), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Nebraska (Mr. NELSON) were added as cosponsors of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as ''National Veterans Awareness Week'' to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 169

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. Res. 169, a resolution expressing the sense of the Senate with respect to free trade negotiations that could adversely impact consumers of sugar in the United States as well as United States agriculture and the broader economy of the United States.

AMENDMENT NO. 771

At the request of Mr. JEFFORDS, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of amendment No. 771 intended to be proposed to H.R. 6, a bill Reserved.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN (for himself and Mr. DORGAN):

S. 1231. A bill to amend the Indian Self-Determination and Education Assistance Act to modify provisions relating to the National Fund for Excellence in American Indian Education; to the Committee on Indian Affairs.

Mr. MCCAIN. Mr. President, today I introduce the National Fund for Excellence in American Indian Education Amendments Act of 2005 to revise the Act.

In 2000, Congress authorized the establishment of a Federally-chartered non-profit foundation to further the educational opportunities for Native American students. This foundation, named the National Fund for Excellence in American Indian Education, was established in July, 2004 and has the potential for success in providing critical support to Native American students.

The legislation I introduce today will enable the foundation to become self-sufficient by authorizing appropriations for endowment or seed money and authorize the Secretary of the Interior to provide funding for the foundation's operating costs on a reimbursement basis. The legislation authorizes $5 million each fiscal year 2007 through 2009 and increases the administration cost limit from 10 percent to 15 percent of donations and transferred funds. This bill will also allow the Board to appoint the Chief Operating Officer who will be experienced in Indian education.

Mr. President, this legislation will provide significant improvements for the foundation in its mission of advancing Indian education and I urge my colleagues to join me in this effort. 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. 1231

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''National Fund for Excellence in American Indian Education Amendments Act of 2005''.

SEC. 2. NATIONAL FUND FOR EXCELLENCE IN AMERICAN INDIAN EDUCATION.

Section 501 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb) is amended—

(1) in subsection (g), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The officers of the Foundation shall be—

''(A) a chief operating officer, to be appointed in accordance with paragraph (2); and

''(B) any other officers, to be appointed or elected in accordance with the constitution and bylaws of the Foundation.

''(2) CHIEF OPERATING OFFICER.—

''(A) APPOINTMENT.—The Board shall appoint a chief operating officer to the Foundation.

''(B) REQUIREMENTS.—The chief operating officer of the Foundation shall—

''(i) demonstrate experience and knowledge in matters relating to—

''(I) education, in general; and

''(II) education of Indians, in particular; and

''(ii) serve at the direction of the Board.''; and

(2) by adding at the end the following:

''(o) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2007 through 2009.

''(2) EFFECT ON OTHER FUNDS.—Funds appropriated under paragraph (1) shall not reduce the amount of funds available for any other program relating to Indian education.''.

SEC. 3. ADMINISTRATIVE SERVICES AND SUPPORT.

Section 502 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bbb–1) is amended—

(1) in subsection (a), by striking paragraph (2) and inserting the following:

''(2) may provide funds—

''(A) to pay the operating costs of the Foundation; and

''(B) to reimburse travel expenses of a member of the Board under section 501; and''; and

(2) in subsection (b), by inserting ''operating and'' before ''travel expenses''.

By Mr. DURBIN (for himself and Mr. OBAMA):

S. 1233. A bill for the relief of Diana Gecaj Engstrom; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, today I and my colleague Senator OBAMA are introducing a private relief bill on behalf of Diana Gejac Engstrom. This bill would grant legal permanent residency status to Ms. Engstrom.

The Engstrom story is one of service. Both the late Todd Engstrom and his widow, Diana, have spent their professional lives in service of human rights and American ideals. Todd served as a Commander in the United Nations Special Operations Group; Diana worked as a United Nations translator in Kosovo. After their marriage in 2003, Diana filed for legal permanent residency, with the ultimate goal of achieving American citizenship.

After the commencement of Operation Iraqi Freedom, Todd joined EOD Technology, Inc. as a Security Manager for Iraq. The U.S. Army assigned Todd to Iraq as a contractor to support our rebuilding efforts. Before leaving for Iraq, Todd asked Diana to raise his son, Dalton, in the event of his death.

Assigned to an area just outside of Fallujah, Todd helped train Iraqi security forces. On September 14, 2004, Todd died in a rocket-propelled grenade attack on his convoy by Iraqi insurgents.

As it stands, in addition to the tragedy of losing her husband, Diana can no longer continue the process of applying for legal residency and is in danger of deportation. Diana and Todd were not married for 2 years and therefore our immigration laws will not allow her to apply for permanent residency as a widow. The permanent residency application process for the surviving spouses of active duty soldiers who die in the course of duty is allowed, under current immigration law, to continue after death, even if the couple has not been married for 2 years.

Todd died in service of the American mission in Iraq; Congress should grant Diana the right to stay on the path towards LPR status. Deporting Diana would unjustly deny Todd's wish that Diana raise his son Dalton.

Todd trained Iraq soldiers so the Iraqi government could one day defend the country on its own. President Bush has made the training of Iraqi security services a central goal in the reconstruction of Iraq. Todd died in pursuit of this goal. Todd's service to our country was significant. His wife should not be made to suffer both the loss of her husband and deportation. This private bill will ensure that the sacrifice of Todd Engstrom is not forgotten.

By Mr. CRAIG:

S. 1234. A bill to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I have sought recognition to comment on legislation I am introducing today to provide a cost-of-living, COLA, adjustment for certain veterans benefits programs. This COLA adjustment would affect payments made to nearly 3 million Department of Veterans Affairs, VA, beneficiaries, and would be reflected in beneficiary checks that are received in January 2006, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment would be compensation paid to disabled veterans, and dependency and indemnity compensation—DIC—payments made to the surviving spouses, minor children and other dependants of persons who died in service, or who died after service as a result of service-connected injuries or diseases.

The President's budget anticipates inflation to be at a 2.3 percent level at the close of this year as measured by the consumer price index—CPI—published by the Department of Labor's Bureau of Labor Statistics. If inflation is held to the 2.3-percent level, that will be the level of COLA adjustment under this legislation since it ties the increase directly to the CPI increase as measured by the Department of Labor. Whatever the CPI increase eventually turns out to be, however, veterans' and survivors' benefits payments must be protected by being increased by a like amount. The Senate has already concurred with that judgment with passage of a budget resolution which assumes an increase equal to the CPI and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I ask my colleagues to support this vital legislation.

I request unanimous consent that this bill be printed in the RECORD.

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

S. 1234

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 ''Veterans' Compensation Cost-of-Living Adjustment Act of 2005''.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) RATE ADJUSTMENT.—Effective on December 1, 2005, the Secretary of Veterans Affairs shall increase, in accordance with subsection (c), the dollar amounts in effect on November 30, 2005, for the payment of disability compensation and dependency and indemnity compensation under the provisions specified in subsection (b).

(b) AMOUNTS TO BE INCREASED.—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) WARTIME DISABILITY COMPENSATION.—Each of the dollar amounts under section 1114 of title 38, United States Code.

(2) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Each of the dollar amounts under sections 1115(1) of such title.

(3) CLOTHING ALLOWANCE.—The dollar amount under section 1162 of such title.

(4) DEPENDENCY AND INDEMNITY COMPENSATION TO SURVIVING SPOUSE.—Each of the dollar amounts under subsections (a) through (d) of section 1311 of such title.

(5) DEPENDENCY AND INDEMNITY COMPENSATION TO CHILDREN.—Each of the dollar amounts under sections 1313(a) and 1314 of such title.

(c) DETERMINATION OF INCREASE.—

(1) PERCENTAGE.—Except as provided in paragraph (2), each dollar amount described in subsection (b) shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 2005, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(2) ROUNDING.—Each dollar amount increased under paragraph (1), if not a whole dollar amount, shall be rounded to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons under section 10 of Public Law 85–857 (72 Stat. 1263) who have not received compensation under chapter 11 of title 38, United States Code.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

The Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in section 2(b), as increased under that section, not later than the date on which the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2006.

By Mr. CRAIG:

S. 1235. A bill to amend chapters 19 and 37 of title 38, United States Code, to extend the availability of $400,000 in coverage under the servicemembers' life insurance and veterans' group life insurance programs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. CRAIG. Mr. President, I have sought recognition to comment on legislation that I have introduced today that will improve insurance and housing benefits available for our Nation's servicemembers and veterans. The ''Veterans Benefits Improvement Act of 2005'' would increase the maximum amount of Servicemembers' Group Life Insurance, SGLI, and Veterans' Group Life Insurance, VGLI, coverage from $250,000 to $400,000; would require the Secretary of Defense to notify spouses of insured servicemembers when those servicemembers elect an SGLI beneficiary other than their spouse or when they elect to reduce SGLI coverage amounts; would provide a two-year, post-discharge window within which totally disabled veterans might elect to convert their insurance coverage from SGLI to VGLI; and would provide flexibility to VA's hybrid adjustable rate mortgage program so that servicemembers and veterans might use their VA home loan benefits in conjunction with this popular type of mortgage financing.

There already has been a great deal of discussion in the 109th Congress about the adequacy of benefits for the survivors of those who have lost their lives in service. There has also been a great deal of action. Section 1012 of Public Law 109–13, the ''Emergency Supplemental Appropriation Act for Defense, the Global War on Terror, and Tsunami Relief, 2005,'' made improvements to the SGLI program. However, section 1012 also specified that the SGLI improvements made in the act be terminated effective September 30, 2005, and that the law as it existed prior to the enactment of Public Law 109–13 be revived on that date. As I understand it, the purpose of the termination language was to give the committee of jurisdiction—in this case, the Veterans' Affairs Committee, which I

chair in the Senate—the opportunity to proceed with proposals that would put a more permanent stamp on changes to the SGLI program.

Towards that end, and consistent with the changes enacted in Public Law 109–13, section 2(a) of my legislation would increase the maximum amount of SGLI and VGLI coverage from $250,000 to $400,000 effective October 1, 2005. SGLI coverage meets the insurance needs of servicemembers and Reserve members; VGLI coverage is available to meet the insurance needs of veterans as they transition out of military or naval service. The higher amount of coverage in my bill, in combination with other Federal assistance provided by VA, the Department of Defense, and the Social Security Administration, would provide for a more appropriate level of financial assistance for survivors of insured servicemembers and veterans. For example, the surviving spouse of an Army Sergeant killed in action who has two dependent children would have eligibility for up to $625,186 in lump-sum benefit assistance from the Federal government.

In addition, section 2(a) of the legislation I have introduced today would require the Secretary of Defense to notify, in writing, the spouses of servicemembers who elect either to name beneficiaries other than their spouses, or who elect to reduce their SGLI coverage. Under existing law, servicemembers have the right to name the insurance beneficiary of their choice. There are, however, some incidences of spouses of married servicemembers being left without adequate insurance for themselves or their children because they were unaware of the insurance decisions the servicemembers had made. I believe the spousal notification requirement in my bill strikes an appropriate balance between the longstanding rights of servicemembers to make their own, unfettered insurance choices, and the rights of spouses to be informed of matters that may impact on their future financial stability.

Turning to the insurance needs of severely disabled servicemembers, section 2(b) of this bill would extend for 1 year the period within which totally disabled veterans discharged from service might apply to convert their SGLI coverage to VGLI coverage. Under current law, servicemembers discharged from service have a 120-day grace period within which they are provided premium-free coverage under SGLI and may convert to VGLI coverage without needing to meet underwriting requirements. Servicemembers separated from service who are totally disabled may apply for an extension of the free SGLI coverage and VGLI conversion benefit that lasts up to one year after military discharge. There are two benefits of applying for the 1 year extension. The first is that SGLI coverage during the 1 year period is provided at no cost to the servicemember. The second is that the application for extension also serves as an application for automatic conversion from SGLI to VGLI. The opportunity to convert life insurance coverage to VGLI is essential for totally disabled veterans, many of whom have no hope of obtaining commercial insurance coverage.

VA's Insurance Service conducts targeted outreach to severely disabled veterans in an attempt to encourage them to apply for the 1 year extension of SGLI and conversion to VGLI benefit. However, information obtained from this outreach effort reveals that many severely disabled veterans are not taking advantage of the extension because they are precluded from post-separation financial planning by the effects of their disabilities and their need to focus on rehabilitation. Preliminary data obtained from VA suggest only 45 percent of totally disabled servicemembers apply for the extension despite VA's outreach effort. My legislation will provide 1 additional year within which severely disabled veterans may apply. The extra year will give VA more time—a total of 2 years after their discharge from the military—to reach veterans when they are perhaps more able to focus on their financial planning needs.

Finally, section 3 of the legislation I have introduced today would provide VA with greater flexibility to set appropriate interest rate cap protections on hybrid ARM loans it guarantees. Under existing law, VA has the authority to guaranty hybrid ARM loans through fiscal year 2008. Hybrid ARM loans are a new, and popular, financing option for borrowers that features a fixed period of interest on a loan for between 3 and 10 years followed by a period of annual adjustments thereafter. For VA hybrid ARM loans with an initial fixed rate of 5 or more years, VA may prescribe the maximum increase of the initial adjustment and the maximum adjustment permitted over the life of the loan. These interest rate ''caps'' are common in the mortgage financing industry, and serve to protect borrowers against wild upward swings in interest rates that might make a borrower more likely to default. However, unlike the flexibility given to VA to set caps for the initial adjustment and for the aggregate adjustment for the life of a loan, the law specifically limits annual interest rate adjustments after the initial adjustment to one percentage point. I am informed by industry and VA experts that without providing VA with greater flexibility to set an appropriate interest rate cap for annual adjustments, lenders will either be reluctant to make VA hybrid ARM loans available to veterans, or will require that veterans pay higher interest rates than otherwise would be required. My legislation would provide VA with the flexibility it needs to fix this problem.

Mr. President, the provisions of this legislation are important for veterans and their loved ones. We must give greater peace of mind to the families of those serving in the military, especially during a wartime period, that their Government has made available to them life insurance coverage to meet their basic financial needs in the event of death. We must give every opportunity for severely wounded servicemembers, many with war wounds, to remain insured under a government life insurance policy if their injuries might preclude them from being covered at reasonable cost under a private policy. And we must ensure that we remain flexible with mortgage industry standards so that veterans have the greatest array of financing options available to them when seeking to partake in the American dream of home ownership. My bill will accomplish all of these things and I ask my colleagues for their support of it.

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

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

S. 1235

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 ''Veterans' Benefits Improvement Act of 2005''.

SEC. 2. GROUP LIFE INSURANCE.

(a) SERVICEMEMBERS' GROUP LIFE INSURANCE.—Section 1967 of title 38, United States Code, as in effect on October 1, 2005, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by adding at the end the following:

''(C) With respect to a policy of insurance covering an insured member, the Secretary of Defense shall make a good-faith effort to notify the spouse of a member if the member elects, at any time, to—

''(i) reduce amounts of insurance coverage of an insured member; or

''(ii) name a beneficiary other than the insured member's spouse.

''(D) The failure of the Secretary of Defense to provide timely notification under subparagraph (C) shall not affect the validity of an election by the member.

''(E) If a servicemember marries or remarries after making an election under subparagraph (C), the Secretary of Defense is not required to notify the spouse of such election. Elections made after marriage or remarriage are subject to the notice requirement under subparagraph (C).''; and

(B) in paragraph (3)—

(i) in subparagraph (A), by striking clause (i) and inserting the following:

''(i) In the case of a member, $400,000.''; and

(ii) in subparagraph (B), by striking ''member or spouse'' and inserting ''member, be evenly divisible by $50,000 and, in the case of a member's spouse''; and

(2) in subsection (d), by striking ''$250,000'' and inserting ''$400,000''.

(b) DURATION OF COVERAGE.—Section 1968(a) of title 38, United States Code, is amended—

(1) in paragraph (1)(A), by striking ''one year'' and inserting ''2 years''; and

(2) in paragraph (4), by striking ''one year'' and inserting ''2 years''.

(c) VETERANS' GROUP LIFE INSURANCE.—Section 1977(a) of title 38, United States Code, as in effect on October 1, 2005, is amended by striking ''$250,000'' each place it appears and inserting ''$400,000''.

SEC. 3. ADJUSTABLE RATE MORTGAGES.

Section 3707(c)(4) of title 38, United States Code, is amended by striking ''1 percentage point'' and inserting ''such percentage as the Secretary may prescribe''.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect on October 1, 2005, immediately after the execution of section 1012(i) of Public Law 109–13.

By Mr. McCAIN (for himself and Mr. LIEBERMAN):

S. 1237. A bill to expedite the transition to digital television while helping consumers to continue to use their analog televisions; to the Committee on Finance.

Mr. McCAIN. Mr. President, I rise today to introduce a bill to support the Nation's finest: our police, fire fighters and other emergency response personnel. The Spectrum Availability for Emergency-response and Law-enforcement to Improve Vital Emergency Services Act, otherwise known as The SAVE LIVES Act. This bill is drafted in response to the 9–11 Commission's final report, which recommended the ''expedited and increased assignment of radio spectrum for public safety purposes.''

To meet this recommendation, the SAVE LIVES Act would set a date certain for the allocation of spectrum to public safety agencies, specifically the 24 MHz of spectrum in the 700 MHz band that Congress promised public safety agencies in 1997. This is a promise Congress has yet to deliver to our Nation's first responders. Now is the time for congressional action before another national emergency or crisis takes place. Access to this specific spectrum is essential to our Nation's safety and welfare as emergency communications sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

In addition to setting a date certain, this bill would authorize funds for public safety agencies to purchase emergency communications equipment and ensure that Congress has the ability to consider whether additional spectrum should be provided for public safety communications prior to the recovered spectrum being auctioned. The bill contains significant language concerning consumer education of the digital television transition. The bill would mandate that warning labels be displayed on analog television sets sold prior to the transition, require warning language to be displayed at television retailers, command the distribution at retailers of brochures describing the television set options available, and call on broadcasters to air informational programs to better prepare consumers for the digital transition.

The bill would ensure that no television viewer's set would go ''dark'' by providing digital-to-analog converter boxes to over-the-air viewers that have a household income that does not exceed 200 percent of the poverty line and by allowing cable companies to down convert digital signal signals if necessary. I continue to believe that broadcast television is a powerful communications tool and important information source for citizens. I know that on 9/11, I learned about the attack on the Twin Towers and the Pentagon like most Americans—by watching television. Therefore, this bill seeks to not only protect citizens' safety but also the distribution of broadcast television.

Lastly, the bill would establish a tax credit for the recycling of television sets and require the Environmental Protection Agency to report to Congress on the need for a national electronic waste recycling program.

The 9–11 Commission's final report contained harrowing tales about police officers and fire fighters who were inside the Twin Towers and unable to receive evacuation orders over their radios from commanders. In fact, the report found that this inability to communicate was not only a problem for public safety organizations responding at the World Trade Center, but also for those responding at the Pentagon and Somerset County, PA, crash sites where multiple organizations and multiple jurisdictions responded. Therefore, the Commission recommended that Congress accelerate the availability of more spectrum for public safety.

The SAVE LIVES Act would implement the important recommendation and ensure that when our Nation experiences another attack, or other critical emergencies occur, our police, fire fighters, and other emergency response personnel will have the ability to communicate with each other and their commanders to prevent another catastrophic loss of life. Now is the time for congressional action before another national emergency or crisis takes place.

Several lawmakers attempted to act last year during the debate on the intelligence reform bill, but our efforts were thwarted by the powerful National Association of Broadcasters. This year, I hope we can all work together and to pass a bill that ensures the country is not only better prepared in case of another attack but also protects the vital communications outlet of broadcast television. I believe the SAVE LIVES Act does just that.

Mr. President, in an effort to expeditiously retrieve the spectrum for the Nation's first responders, to preserve over-the-air television accessibility to consumers and to ensure the adequate funding of both, I urge the enactment of the SAVE LIVES Act.

By Mrs. FEINSTEIN (for herself, Mr. BINGAMAN, and Mr. DOMENICI):

S. 1238. A bill to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce the Public Lands Corps Healthy Forest Restoration Act of 2005. I am introducing this bill with Senators DOMENICI and BINGAMAN, whose cosponsorship I greatly appreciate. I also understand that Congressmen GREG WALDEN and TOM UDALL are introducing an identical version of the bill in the House, which I also appreciate.

This bill authorizes the Secretaries of Agriculture and Interior to enter into contracts and cooperative agreements with qualified corps to perform appropriate conservation projects, assist governments and Indian tribes in performing research and public education associated with natural and cultural resources, introduce young people to public service and expand their educational opportunities, and stimulate interest among the Nation's youth in careers in conservation and land management.

Consistent with the Healthy Forest Restoration Act, this bill also identifies a series of priority projects for corps to carry out including the restoration and protection of public lands threatened by severe fire, insect or disease infestation or other damaging agents; the protection, restoration, or enhancement of forest ecosystem components to promote the recovery of threatened and endangered species; the improvement of biological diversity; and, the enhancement of productivity and carbon sequestration.

In general, the Secretaries may give a preference to those corps that enroll young people who are economically, physically, or educationally disadvantaged. When it comes to the priority projects, the Secretaries shall ''to the maximum extent practicable'' give preference to those corps that have a substantial number of members who are disadvantaged. It also allows the Secretaries to grant noncompetitive hiring status to corps alumni for future Federal hiring. Finally, the bill authorizes $15 million a year, of which $10 million is for the priority projects identified in the bill and $5 million is for nonpriority projects.

I have named this legislation the Public Lands Corps Healthy Forests Restoration Act because it builds on both the Public Lands Corps Act of 1993 and the recently enacted Healthy Forest Restoration Act. I also want to note that last year the administration supported an earlier, but substantially similar, version of this bill.

This bill uses the cost saving resources of youth corps to carry out projects. It is estimated that youth corps generate $1.60 in immediate benefits for every dollar in costs. This figure is important given both the great need and great costs associated with fighting fires. The Federal Government is responsible for overseeing 689 million acres of land and five Federal agencies reported spending $1.6 billion in 2002 on fire fighting suppression efforts—a whopping $300 million more than the previous record.

As an example of what can happen in one State, consider 2003's catastrophic wildfires in southern California. Before these wildfires were contained, they scorched a total of 739,597 acres, killed 24 people, and destroyed approximately 3,631 homes and thousands of other structures. Not only did insurance payouts cost more than $3 billion, but public expenditures for firefighting and recovery ran into the hundreds of millions of dollars. And California is certainly not the only State to incur large costs from fires.

I want to reduce the chances of this type of catastrophe recurring in the future. To do so, we must use every resource at our disposal. I know that youth service and conversation corps can play a significant role in reducing the physical and financial strain that public land management agencies bear, and help protect our Nation's public lands from wildfires and other forms of devastation.

I have seen firsthand the benefits that service and conservation corps bring to communities and the difference that they make in the lives of disadvantaged youth. In 1983, I founded the first urban youth corps as mayor of San Francisco, and during that time I saw a great improvement in the quality of life of the corps members and of the city itself. When the program started, it had a million-dollar budget and employed 36 disadvantaged young people 18 to 23 years old. They needed some direction, wanted a challenge, and to make themselves socially useful.

That first year, we paid corps members $3.35 an hour to repair bathrooms in affordable housing for senior citizens and others, build a park in Hunter's Point, clear scotch broom from the Twin Peaks hillside, and fix up Alcatraz Island. In the subsequent 22 years, the San Francisco Conservation Corps, SFCC, has grown into a multisite, multifaceted agency that engages more than 500 young adults annually who have completed over 3.5 million hours of community service.

The San Francisco Conservation Corps has also given thousands of corps members a sense of personal pride, helped connect them with their community, and prove that hard work pays off. I started the corps to help young people break out of the cycle of poverty and crime and improve their job skills by giving them guidance and support through labor-intensive activities.

I am introducing this bill with the hope that the success of the San Francisco Conservation Corps can be duplicated nationwide. This program will not reach every disadvantaged young person in need of guidance and a second chance. But it is a start, and I urge my colleagues to join me in this effort.

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

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

S. 1238

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 ''Public Lands Corps Healthy Forests Restoration Act of 2005''.

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) DEFINITIONS.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

''(8) PRIORITY PROJECT.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

''(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

''(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

''(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

''(D) To protect, restore, or enhance forest ecosystem components to—

''(i) promote the recovery of threatened or endangered species;

''(ii) improve biological diversity; or

''(iii) enhance productivity and carbon sequestration.''; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

''(12) SECRETARY.—The term 'Secretary' means—

''(A) with respect to National Forest System land, the Secretary of Agriculture; and

''(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.''.

(b) QUALIFIED YOUTH OR CONSERVATION CORPS.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking ''The Secretary of the Interior and the Secretary of Agriculture are'' and inserting the following:

''(1) IN GENERAL.—The Secretary is''; and

(2) by adding at the end the following:

''(2) PREFERENCE.—

''(A) IN GENERAL.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

''(B) PRIORITY PROJECTS.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.''.

(c) CONSERVATION PROJECTS.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking ''The Secretary of the Interior and the Secretary of Agriculture may each'' and inserting the following:

''(1) IN GENERAL.—The Secretary may''; and

(B) by striking ''such Secretary'' and inserting ''the Secretary'';

(2) in the second sentence, by striking ''Appropriate conservation'' and inserting the following:

''(2) PROJECTS ON INDIAN LANDS.—Appropriate conservation''; and

(3) by striking the third sentence and inserting the following:

''(3) DISASTER PREVENTION OR RELIEF PROJECTS.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.''.

(d) CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

''SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.'';

(2) by striking subsection (a) and inserting the following:

''(a) ESTABLISHMENT AND USE.—

''(1) IN GENERAL.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

''(A) use by the Public Lands Corps; and

''(B) the conduct of appropriate conservation projects under this title.

''(2) ASSISTANCE FOR CONSERVATION CENTERS.—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

''(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

''(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

''(B) ensure that the standards established under subparagraph (A) are enforced.

''(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center.''; and

(3) by adding at the end the following:

''(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.''.

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

(1) by striking subsection (a) and inserting the following:

''(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary.''; and

(2) by adding at the end the following:

''(c) HIRING.—The Secretary may—

''(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

''(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.''.

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

''(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps

through other Federal programs or projects.''; and

(2) by inserting after section 210 the following:

''SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

''(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $15,000,000 for each fiscal year, of which $10,000,000 is authorized to carry out priority projects.

''(b) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.''.

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in subsection (e), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''; and

(B) in subsection (c), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary'';

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(II) by striking ''such Secretary'' and inserting ''the Secretary'';

(ii) in the third sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(iii) in the fourth sentence, by striking ''Secretaries'' and inserting ''Secretary''; and

(B) in the first sentence of subsection (b), by striking ''Secretary of the Interior or the Secretary of Agriculture'' and inserting ''the Secretary''; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(ii) in paragraph (2), by striking ''Secretary of the Interior and the Secretary of Agriculture are each'' and inserting ''Secretary is''; and

(B) in subsection (b), by striking ''Secretary of the Interior and the Secretary of Agriculture'' and inserting ''Secretary''.

By Mr. McCAIN (for himself, Mr. DORGAN, and Mr. BAUCUS):

S. 1239. A bill to amend the Indian Health Care Improvement Act to permit the Indian Health Service, an Indian tribe, a tribal organization, or an urban Indian organization to pay the monthly part D premium of eligible medicare beneficiaries; to the Committee on Indian Affairs.

Mr. McCAIN. Mr. President, today I introduce the American Indian Elderly and Disabled Access to Health Care Act of 2005 to revise the Indian Health Care Improvement Act.

The legislation I introduce today will amend the Indian Health Care Improvement Act to permit the Indian Health Service, an Indian tribe, tribal or Urban Indian organization to use their funding to pay the Medicare Part D premiums of eligible Indian beneficiaries. These premium payments are for the American Indians and Alaska Natives enrolled in the prescription drug plans under part D of title XVIll of the Social Security Act. Currently, these funds can be used for paying Medicare Parts A and B premiums but not Part D, and this legislation will enable eligible Indian beneficiaries to enroll and participate in the Part D program when it begins in January, 2006.

Mr. President, this legislation will increase the ability of the elderly and disabled American Indians and Alaska Natives to access the prescription drug benefits available under Medicare Part D and assist the Indian Health Service in achieving potentially significant cost savings. I urge my colleagues to join me in improving access to health care for American Indians and Alaska Natives.

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

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

S. 1239

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''American Indian Elderly and Disabled Access to Health Care Act of 2005''.

SEC. 2. PAYMENT OF MEDICARE MONTHLY PART D PREMIUM.

(a) IN GENERAL.—Section 404 of the Indian Health Care Improvement Act (25 U.S.C. 1644) is amended by adding at the end the following new subsection:

''(d) PAYMENT OF MONTHLY PART D PREMIUM UNDER THE MEDICARE PROGRAM.—

''(1) PAYMENT OF MONTHLY PART D PREMIUM.—The Service, an Indian tribe, a tribal organization, or an urban Indian organization may use appropriated funds or funds collected pursuant to the authority granted in this title to pay the monthly beneficiary premium (as determined under section 1860D–13 of the Social Security Act (42 U.S.C. 1395w–113) of an eligible medicare beneficiary enrolled in a prescription drug plan or an MA–PD plan under part D of title XVIII of such Act (42 U.S.C. 1395w–101 et seq.).

''(2) CONSIDERATIONS.—In deciding whether to pay the premium of an eligible medicare beneficiary under paragraph (1), the Indian Health Service, Indian tribe, tribal organization, or urban Indian organization shall consider the cost effectiveness of paying such premium for such individual, taking into account—

''(A) the beneficiary's expected drug utilization; and

''(B) other factors that the Service, Indian tribe, tribal organization, or urban Indian organization determines appropriate for the purpose of determining the cost effectiveness of paying such premium.

''(3) ELIGIBLE BENEFICIARY DEFINED.—The term 'eligible medicare beneficiary' means an individual who—

''(A) is an Indian;

''(B) is a part D eligible individual (as defined in section 1860D–1(a)(3)(A) of the Social Security Act (42 U.S.C. 1395w–101(a)(3)(A))); and

''(C) is not a subsidy eligible individual who receives a full premium subsidy under 1860D–14(a)(1)(A) of such Act (42 U.S.C. 1395w–114(a)(1)(A)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to monthly beneficiary premium payments made with respect to months beginning on or after January 1, 2006.

By Mr. SMITH (for himself and Mrs. LINCOLN):

S. 1240. A bill to amend the Internal Revenue Code of 1986 to allow an investment tax credit for the purchase of trucks with new diesel engine technologies, and for other purposes; to the Committee on Finance.

Mr. SMITH. Mr. President, today I introduce legislation critically important to our Nation's continued economic growth and future environmental progress. I am joined by my friend and colleague from Arkansas, Senator LINCOLN.

Nearly everything sold in the United States moves by truck at some stage of delivery. In fact, America's trucking industry is responsible for moving nearly 70 percent of the tonnage of all products sold in the U.S.—a total of more than 9.8 billion tons of freight shipped in 2004.

If trucking serves as the circulatory system for the U.S. economy, then diesel engines provide America's economic heartbeat. Because of their superior fuel efficiency, durability and reliability, diesel engines power 100 percent of the long-haul trucks responsible for the bulk of freight deliveries in the U.S. Engineers have revolutionized this technology over the past decade by dramatically reducing emissions while maintaining diesel's inherent fuel efficiency. For example, a new truck sold today produces 78 percent fewer smog-forming and particulate emissions than a similar truck built in 1987.

Even more advanced, cleaner technology is scheduled to begin rolling on America's highways in 2007. Beginning that year, a new Environmental Protection Agency, EPA, regulation for diesel trucks will require further reductions in smog-forming and particulate emissions—reductions of over 90 percent compared to current levels. When fully implemented in 2010, EPA's clean diesel rule is estimated to reduce smog-forming emissions of nitrogen oxides by 2.6 million tons each year, along with 110,000 tons of fine particulate matter annually.

These clean diesel trucks are expected to play a leading role in helping cities and states meet strict new federal standards for ozone and fine particulates. And the technology is real; truck manufacturers and suppliers have demonstrated their commitment to delivering clean diesel by 2007.

However, we must recognize that clean air comes at a price. Trucks containing clean diesel engines that meet the EPA regulation in 2007 will include innovative emissions control technology that will increase purchase and

maintenance costs. Additionally, the 2007 trucks will run on low-sulfur diesel fuel that will be more expensive because of the added cost of sulfur removal. These additional financial burdens will fall upon America's trucking industry—where 96 percent of companies are designated as small businesses.

Equally important for those of us concerned about clean air, we must recognize that EPA's projected environmental benefits will materialize only if trucking companies can afford to purchase the cleaner but more expensive trucks equipped with the clean diesel engines. Federal regulation can require manufacturers to produce emissions compliant products, but the government cannot mandate the purchase of these clean diesel trucks. Customers always have the option of holding on to older trucks longer, rebuilding older engines, leasing older trucks, or turning to the used truck market. They can also simply buy more trucks today, with older design components and without the cleanest technology, and defer the purchase of cleaner trucks.

The bottom line is that the actual trucks in service on America's highways in 2007 and beyond will not yield the emissions reductions currently projected by EPA's own air quality models unless trucking companies can afford to buy the new clean diesels. Absent a short-term incentive for the purchase of these new trucks in 2007, simple economics will drive most trucking companies to either pre-purchase trucks that do not meet the new EPA regulation or extend the lives of their current fleets. This ''pre-buy/low-buy'' scenario played out most recently with the introduction of lower emission diesel trucks in October 2002.

Avoiding this problem, Mr. President, is the reason I am introducing this legislation today. Truck manufacturers and suppliers have responded to our clean air challenge and will be ready for the on-time delivery of remarkably clean trucks in 2007. The Federal Government needs to take the next step by helping to ensure the widest possible distribution of this clean diesel technology into the U.S. trucking fleet.

Under the proposal I am introducing today with Senator LINCOLN, taxpayers would be allowed an investment tax credit equal to 5 percent of the cost of EPA-compliant diesel equipment for acquisitions after December 31, 2006 but before January 1, 2008. The credits could be used against the taxpayer's regular tax or AMT liability. The credit would be part of the general business credit and thus credits unutilized in a taxable year would be carried over to another taxable year.

In addition, taxpayers would be allowed to expense the acquisition cost of qualifying equipment acquired and placed in service after December 31, 2006 and before January 1, 2008, for purposes of both the regular tax and the AMT.

Enacting the short-term tax incentive that Senator LINCOLN and I propose would put the cost of new clean diesel technology on at least a level playing field with the cost of today's trucks. It would ensure that trucking companies have the financial ability to purchase these modern clean diesels. Consequently, our legislation would ensure that Americans can breathe easier because the full air quality benefits intended by EPA's clean diesel rule will be realized.

I look forward to working with Senator LINCOLN and the rest of my colleagues to see this important clean air legislation enacted.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 1241. A bill to suspend temporarily the duty on fixed ratio speed changers for truck-mounted concrete mixers; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today to introduce legislation which would temporarily suspend the duty on fixed ratio speed changers for truck-mounted concrete mixers. In the past 5 years, the manufacturers of diesel engines have been subject to new regulations, including more stringent emission standards for diesel engines, which have increased the cost to make the engines. That cost increase has been passed onto consumers. This legislation would allow U.S. manufacturers to import the parts duty free and help manufacturers remain competitive and continue to provide high quality and affordable engines.

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

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

S. 1241

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

SECTION 1. FIXED RATIO SPEED CHANGERS.

(a) IN GENERAL.—Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

''	9902.84.01	Fixed ratio speed changers for truck-mounted concrete mixer drums (provided for in subheading 8483.40.50)	Free	No change	No change	On or before 12/31/2008	''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of enactment of this Act.

Mr. GRASSLEY (for himself and Mrs. LINCOLN):

S. 1244. A bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term needs; to the Committee on Finance.

Mr. GRASSLEY, Mr. President, I rise today to introduce the Long-Term Care and Retirement Security Act. I am pleased to be sponsoring this bill with my distinguished colleague from Arkansas, Senator BLANCHE LINCOLN.

Our bill would ease the tremendous cost of long-term care for Americans everywhere. First, it would allow individuals a tax deduction for the cost of long-term care insurance premiums. Increasingly, Americans are interested in private long-term care insurance to pay for nursing home stays, assisted living, home health aides, and other services. However, most people find the policies unaffordable. The younger the person is at the time the longcare insurance contract is purchased, the lower the insurance premium. Yet most people are not ready to buy a policy until retirement. A deduction for long-term care insurance premiums would encourage more people to buy a long-term care insurance policy.

Our proposal would also give individuals or their care gives a $3,000 tax credit to help cover their long-term care expenses. This would apply to those who have been certified by a doctor as needing help with at least three activities of daily living, such as eating, bathing or dressing. This credit—would help care givers pay for medical supplies, nursing care and any other expenses incurred while caring for family members with disabilities.

This year, I have been pleased to see our Nation turn its attention to the need to address the challenges of our aging population. The President has used the power of the Presidency to jumpstart a national discussion of the need to reform Social Security. Attention also has been focused on the need to increase our abysmally low savings rate and to ensure that workers' pensions are fully funded. At the same time, I have been glad to see attention also focused on helping Americans' prepare for future long-term care expenses. Enactment of the bill we are introducing today would mark a giant step forward in doing just that.

An aging Nation has no time to waste in preparing for long-term care, and the need to help people afford long-term care is more pressing than ever. I look forward to working with Senator LINCOLN and our colleagues in the Senate to get our bill passed into law as soon as possible.

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

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

S. 1244

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 ''Long-Term Care and Retirement Security Act of 2005''.

SEC. 2. TREATMENT OF PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions) is amended by redesignating section 224 as section 225 and by inserting after section 223 the following new section:

''SEC. 224. PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a deduction an amount equal to the applicable percentage of the amount of eligible long-term care premiums (as defined in section 213(d)(10)) paid during the taxable year for coverage for the taxpayer and the taxpayer's spouse and dependents under a qualified long-term care insurance contract (as defined in section 7702B(b)).

''(b) APPLICABLE PERCENTAGE.—For purposes of subsection (a), the applicable percentage shall be determined in accordance with the following table:

For taxable years beginning in calendar year—	The applicable percentage is—
2005, 2006, or 2007	25
2008	35
2009	65
2010 or thereafter	100.

''(c) COORDINATION WITH OTHER DEDUCTIONS.—Any amount paid by a taxpayer for any qualified long-term care insurance contract to which subsection (a) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 162(l) or 213(a).''.

(b) LONG-TERM CARE INSURANCE PERMITTED TO BE OFFERED UNDER CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—

(1) CAFETERIA PLANS.—The last sentence of section 125(f) of such Code (defining qualified benefits) is amended by inserting before the period at the end ''; except that such term shall include the payment of premiums for any qualified long-term care insurance contract (as defined in section 7702B) to the extent the amount of such payment does not exceed the eligible long-term care premiums (as defined in section 213(d)(10)) for such contract''.

(2) FLEXIBLE SPENDING ARRANGEMENTS.—Section 106 of such Code (relating to contributions by an employer to accident and health plans) is amended by striking subsection (c) and redesignating subsection (d) as subsection (c).

(c) CONFORMING AMENDMENTS.—

(1) Section 62(a) of such Code is amended by inserting before the last sentence at the end the following new paragraph:

''(21) PREMIUMS ON QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.—The deduction allowed by section 224.''.

(2) Sections 223(b)(4)(B), 223(d)(4)(C), 223(f)(3)(B), 3231(e)(11), 3306(b)(18), 3401(a)(22), 4973(g)(1), and 4973(g)(2)(B)(i) of such Code are each amended by striking ''section 106(d)'' and inserting ''section 106(c)''.

(3) Section 6041 of such Code is amended—

(A) in subsection (f)(1) by striking ''(as defined in section 106(c)(2))'', and

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

''(h) FLEXIBLE SPENDING ARRANGEMENT DEFINED.—For purposes of this section, a flexible spending arrangement is a benefit program which provides employees with coverage under which—

''(1) specified incurred expenses may be reimbursed (subject to reimbursement maximums and other reasonable conditions), and

''(2) the maximum amount of reimbursement which is reasonably available to a participant for such coverage is less than 500 percent of the value of such coverage.

In the case of an insured plan, the maximum amount reasonably available shall be determined on the basis of the underlying coverage.''.

(4) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the last item and inserting the following new items:

''Sec. 224. Premiums on qualified long-term care insurance contracts
''Sec. 225. Cross reference''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2004.

(2) CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2006.

SEC. 3. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. CREDIT FOR TAXPAYERS WITH LONG-TERM CARE NEEDS.

''(a) ALLOWANCE OF CREDIT.—

''(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable credit amount multiplied by the number of applicable individuals with respect to whom the taxpayer is an eligible caregiver for the taxable year.

''(2) APPLICABLE CREDIT AMOUNT.—For purposes of paragraph (1), the applicable credit amount shall be determined in accordance with the following table:

For taxable years beginning in calender year—	The applicable credit amount is—
2005	$1,000
2006	1,500
2007	2,000
2008	2,500
2009 or thereafter	3,000.

''(b) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

''(1) IN GENERAL.—The amount of the credit allowable under subsection (a) shall be reduced (but not below zero) by $100 for each $1,000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount. For purposes of the preceding sentence, the term 'modified adjusted gross income' means adjusted gross income increased by any amount excluded from gross income under section 911, 931, or 933.

''(2) THRESHOLD AMOUNT.—For purposes of paragraph (1), the term 'threshold amount' means—

''(A) $150,000 in the case of a joint return, and

''(B) $75,000 in any other case.

''(3) INDEXING.—In the case of any taxable year beginning in a calendar year after 2005, each dollar amount contained in paragraph (2) shall be increased by an amount equal to the product of—

''(A) such dollar amount, and

''(B) the medical care cost adjustment determined under section 213(d)(10)(B)(ii) for the calendar year in which the taxable year begins, determined by substituting 'August 2004' for 'August 1996' in subclause (II) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50.

''(c) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE INDIVIDUAL.—

''(A) IN GENERAL.—The term 'applicable individual' means, with respect to any taxable year, any individual who has been certified, before the due date for filing the return of tax for the taxable year (without extensions), by a physician (as defined in section 1861(r)(1) of the Social Security Act) as being an individual with long-term care needs described in subparagraph (B) for a period—

''(i) which is at least 180 consecutive days, and

''(ii) a portion of which occurs within the taxable year.

Notwithstanding the preceding sentence, a certification shall not be treated as valid unless it is made within the 39½ month period ending on such due date (or such other period as the Secretary prescribes).

''(B) INDIVIDUALS WITH LONG-TERM CARE NEEDS.—An individual is described in this subparagraph if the individual meets any of the following requirements:

''(i) The individual is at least 6 years of age and—

''(I) is unable to perform (without substantial assistance from another individual) at least 3 activities of daily living (as defined in section 7702B(c)(2)(B)) due to a loss of functional capacity, or

''(II) requires substantial supervision to protect such individual from threats to health and safety due to severe cognitive impairment and is unable to preform, without reminding or cuing assistance, at least 1 activity of daily living (as so defined) or to the extent provided in regulations prescribed by the Secretary (in consultation with the Secretary of Health and Human Services), is unable to engage in age appropriate activities.

''(ii) The individual is at least 2 but not 6 years of age and is unable due to a loss of functional capacity to perform (without substantial assistance from another individual) at least 2 of the following activities: eating, transferring, or mobility.

''(iii) The individual is under 2 years of age and requires specific durable medical equipment by reason of a severe health condition or requires a skilled practitioner trained to address the individual's condition to be available if the individual's parents or guardians are absent.

''(2) ELIGIBLE CAREGIVER.—

''(A) IN GENERAL.—A taxpayer shall be treated as an eligible caregiver for any taxable year with respect to the following individuals:

''(i) The taxpayer.

''(ii) The taxpayer's spouse.

''(iii) An individual with respect to whom the taxpayer is allowed a deduction under section 151(c) for the taxable year.

''(iv) An individual who would be described in clause (iii) for the taxable year if section 151(c) were applied by substituting for the exemption amount an amount equal to the sum of the exemption amount, the standard deduction under section 63(c)(2)(C), and any additional standard deduction under section 63(c)(3) which would be applicable to the individual if clause (iii) applied.

''(v) An individual who would be described in clause (iii) for the taxable year if—

''(I) the requirements of clause (iv) are met with respect to the individual, and

''(II) the requirements of subparagraph (B) are met with respect to the individual in lieu of the support test under subsection (c)(1)(D) or (d)(1)(C) of section 152.

''(B) RESIDENCY TEST.—The requirements of this subparagraph are met if an individual has as his principal place of abode the home of the taxpayer and—

''(i) in the case of an individual who is an ancestor or descendant of the taxpayer or the taxpayer's spouse, is a member of the taxpayer's household for over half the taxable year, or

''(ii) in the case of any other individual, is a member of the taxpayer's household for the entire taxable year.

''(C) SPECIAL RULES WHERE MORE THAN 1 ELIGIBLE CAREGIVER.—

''(i) IN GENERAL.—If more than 1 individual is an eligible caregiver with respect to the same applicable individual for taxable years ending with or within the same calendar year, a taxpayer shall be treated as the eligible caregiver if each such individual (other than the taxpayer) files a written declaration (in such form and manner as the Secretary may prescribe) that such individual will not claim such applicable individual for the credit under this section.

''(ii) NO AGREEMENT.—If each individual required under clause (i) to file a written declaration under clause (i) does not do so, the individual with the highest adjusted gross income shall be treated as the eligible caregiver.

''(iii) MARRIED INDIVIDUALS FILING SEPARATELY.—In the case of married individuals filing separately, the determination under this subparagraph as to whether the husband or wife is the eligible caregiver shall be made under the rules of clause (ii) (whether or not one of them has filed a written declaration under clause (i)).

''(d) IDENTIFICATION REQUIREMENT.—No credit shall be allowed under this section to a taxpayer with respect to any applicable individual unless the taxpayer includes the name and taxpayer identification number of such individual, and the identification number of the physician certifying such individual, on the return of tax for the taxable year.

''(e) TAXABLE YEAR MUST BE FULL TAXABLE YEAR.—Except in the case of a taxable year closed by reason of the death of the taxpayer, no credit shall be allowable under this section in the case of a taxable year covering a period of less than 12 months.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6213(g)(2) of such Code is amended by striking ''and'' at the end of subparagraph (L), by striking the period at the end of subparagraph (M) and inserting '', and'', and by inserting after subparagraph (M) the following new subparagraph:

''(N) an omission of a correct TIN or physician identification required under section 25C(d) (relating to credit for taxpayers with long-term care needs) to be included on a return.''.

(2) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Credit for taxpayers with long-term care needs''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 4. ADDITIONAL CONSUMER PROTECTIONS FOR LONG-TERM CARE INSURANCE.

(a) ADDITIONAL PROTECTIONS APPLICABLE TO LONG-TERM CARE INSURANCE.—Subparagraphs (A) and (B) of section 7702B(g)(2) of the Internal Revenue Code of 1986 (relating to requirements of model regulation and Act) are amended to read as follows:

''(A) IN GENERAL.—The requirements of this paragraph are met with respect to any contract if such contract meets—

''(i) MODEL REGULATION.—The following requirements of the model regulation:

''(I) Section 6A (relating to guaranteed renewal or noncancellability), other than paragraph (5) thereof, and the requirements of section 6B of the model Act relating to such section 6A.

''(II) Section 6B (relating to prohibitions on limitations and exclusions) other than paragraph (7) thereof.

''(III) Section 6C (relating to extension of benefits).

''(IV) Section 6D (relating to continuation or conversion of coverage).

''(V) Section 6E (relating to discontinuance and replacement of policies).

''(VI) Section 7 (relating to unintentional lapse).

''(VII) Section 8 (relating to disclosure), other than sections 8F, 8G, 8H, and 8I thereof.

''(VIII) Section 11 (relating to prohibitions against post-claims underwriting).

''(IX) Section 12 (relating to minimum standards).

''(X) Section 13 (relating to requirement to offer inflation protection).

''(XI) Section 25 (relating to prohibition against preexisting conditions and probationary periods in replacement policies or certificates).

''(XII) The provisions of section 26 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(ii) MODEL ACT.—The following requirements of the model Act:

''(I) Section 6C (relating to preexisting conditions).

''(II) Section 6D (relating to prior hospitalization).

''(III) The provisions of section 8 relating to contingent nonforfeiture benefits, if the policyholder declines the offer of a nonforfeiture provision described in paragraph (4).

''(B) DEFINITIONS.—For purposes of this paragraph—

''(i) MODEL PROVISIONS.—The terms 'model regulation' and 'model Act' mean the long-term care insurance model regulation, and the long-term care insurance model Act, respectively, promulgated by the National Association of Insurance Commissioners (as adopted as of October 2000).

''(ii) COORDINATION.—Any provision of the model regulation or model Act listed under clause (i) or (ii) of subparagraph (A) shall be treated as including any other provision of such regulation or Act necessary to implement the provision.

''(iii) DETERMINATION.—For purposes of this section and section 4980C, the determination of whether any requirement of a model regulation or the model Act has been met shall be made by the Secretary.''.

(b) EXCISE TAX.—Paragraph (1) of section 4980C(c) of the Internal Revenue Code of 1986 (relating to requirements of model provisions) is amended to read as follows:

''(1) REQUIREMENTS OF MODEL PROVISIONS.—

''(A) MODEL REGULATION.—The following requirements of the model regulation must be met:

''(i) Section 9 (relating to required disclosure of rating practices to consumer).

''(ii) Section 14 (relating to application forms and replacement coverage).

''(iii) Section 15 (relating to reporting requirements).

''(iv) Section 22 (relating to filing requirements for marketing).

''(v) Section 23 (relating to standards for marketing), including inaccurate completion of medical histories, other than paragraphs (1), (6), and (9) of section 23C.

''(vi) Section 24 (relating to suitability).

''(vii) Section 29 (relating to standard format outline of coverage).

''(viii) Section 30 (relating to requirement to deliver shopper's guide).

The requirements referred to in clause (vi) shall not include those portions of the personal worksheet described in Appendix B relating to consumer protection requirements not imposed by section 4980C or 7702B.

''(B) MODEL ACT.—The following requirements of the model Act must be met:

''(i) Section 6F (relating to right to return).

''(ii) Section 6G (relating to outline of coverage).

''(iii) Section 6H (relating to requirements for certificates under group plans).

''(iv) Section 6J (relating to policy summary).

''(v) Section 6K (relating to monthly reports on accelerated death benefits).

''(vi) Section 7 (relating to incontestability period).

''(C) DEFINITIONS.—For purposes of this paragraph, the terms 'model regulation' and 'model Act' have the meanings given such terms by section 7702B(g)(2)(B).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to policies issued more than 1 year after the date of the enactment of this Act.

SEC. 5. TREATMENT OF EXCHANGES OF LONG-TERM CARE INSURANCE CONTRACTS.

(a) IN GENERAL.—Subsection (a) of section 1035 of the Internal Revenue Code of 1986 (relating to exchanges of insurance policies) is amended by striking the period at the end of paragraph (3) and inserting ''; or'' and by adding at the end the following new paragraph:

''(4) a qualified long-term care insurance contract for another qualified long-term care insurance contract.''.

(b) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—Subsection (b) of section 1035 of such Code (relating to definitions) is amended by adding at the end the following new paragraph:

''(4) QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—The term 'qualified long-term care insurance contract' means—

''(A) any qualified long-term care insurance contract (as defined in section 7702B), and

''(B) any contract which is treated as such by section 321(f)(2) of the Health Insurance Portability and Accountability Act of 1996.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to exchanges after December 31, 1997.

(2) WAIVER OF LIMITATIONS.—If the credit or refund of any overpayment of tax with respect to a taxable year ending before the date of the enactment of this Act resulting from the application of section 1035(a)(4) of the Internal Revenue Code of 1986, as added by this section, is prevented at any time by the operation of any law or rule of law (including res judicata), such credit or refund may nevertheless be allowed or made if the claim therefor is filed before the close of the 1-year period beginning on the date of the enactment of this Act.

Mrs. LINCOLN. Mr. President, I am pleased to introduce the Long Term Care and Retirement Security Act of 2005 with the Chairman of the Senate Finance Committee and my good friend from Iowa, Senator CHARLES GRASSLEY.

The introduction of our bill coincides nicely with the debate we are about to have in the Senate Finance Committee about Medicaid. Almost one-third of Medicaid costs can be attributed to long term care of the elderly and disabled.

The first of the 77 million Baby Boomers turn 65 years old in 2011. I believe that Congress needs to help them prepare for their futures now by investing in a private long term care policy. We must also make them aware that many long term care services are not covered by private health insurance or by Medicare. Historically, long term care costs have been paid first by families out-of-pocket and then by Medicaid for those who qualify and ''spend down'' to the income and assets limits.

Our legislation will create a tax credit for caregivers and individuals faced with the immediate expense of long-term care. The bill would also help Americans better prepare for their future needs by providing a tax deduction to help consumers pay long-term care insurance premiums for policies that meet strong consumer protection standards. Such plans will cover both medical and non-medical supportive care and personal care assistance so that elders can age at home.

Unless we encourage Americans to plan ahead, demand and costs for long term care services could deplete their savings and exhaust government programs. These tax incentives are a good first step forward to avoiding this problem.

I believe this bill should be seriously considered during the Medicaid debate. States all over the country are being impacted by decreased revenues and are being forced to make tough choices. At the same time, enrollment in Medicaid is increasing.

In fact, compared to other states, enrollment in Medicaid in Arkansas is growing at one of the fastest rates. Monthly Medicaid enrollment grew by 9.6 percent from June 2002 to June 2003, while the national average was 5.9 percent.

This legislation should also be a part of our debate on Social Security and retirement security. Long term care insurance should be a part of every family's retirement plan. Nursing home care is expensive, and not all state Medicaid programs pay for long term care within an individual's home.

I urge my colleagues to become cosponsors of this important legislation and work with Senator GRASSLEY and me to pass it as soon as possible.

By Mr. DODD (for himself, Mr. JEFFORDS, Mr. KERRY, and Mr. FEINGOLD):

S. 1246. A bill to require the Secretary of Education to revise regulations regarding student loan payment deferment with respect to borrowers who are in postgraduate medical or dental internship, residency, or fellowship programs; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today with Senators JEFFORDS, KERRY and FEINGOLD to introduce the Medical Education Affordability Act, MEAA. The purpose of this bill is to make medical and dental education more affordable.

Upon graduation from college, students who demonstrate economic hardship are eligible to extend their student loan deferment for up to 3 additional years. Using the economic hardship deferment, a formula that takes into account earnings and debt level, the majority of medical and dental residents defer repayment of their student loans until the end of their residency period. Unfortunately, for those specialties that require a residency of more than 3 years—OB/GYN, psychiatry, and general surgery to name a few—student loan repayment begins before a resident's medical or dental education is completed. This situation creates an enormous financial burden for residents who have, in most cases, incurred significant debt. In 2004, the average indebtedness for graduating medical students was $115,000, for graduating dental students it was $122,263. While lenders are currently required to offer forbearance to medical and dental students, this is an expensive option as interest continues to accrue and may be capitalized more often.

The Medical Education Affordability Act would solve this problem by extending the economic hardship deferment to cover the entire length of a medical or dental residency. By altering the definition we are removing a significant financial obstacle facing students with residency periods longer than 3 years. I want to stress again, residents will still have to demonstrate economic hardship—MEAA only extends the deferment for borrowers that continue to meet the debt-to-income requirements of the economic hardship deferment.

Mr. President, I hope my colleagues will join me in support of medical education by signing onto this bill. By working together, I believe that the Senate as a body can act to ensure that more individuals are able to pursue a full range of medical specialties.

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

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

S. 1246

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 ''Medical Education Affordability Act''.

SEC. 2. REGULATION REVISION REQUIRED.

(a) ACTION REQUIRED.—Not later than 90 days after the date of enactment of this Act, the Secretary of Education shall revise the regulations of the Department of Education that are promulgated to carry out the provisions relating to student loan repayment deferment under the Federal Family Education Loan Program under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.), the William D. Ford Federal Direct Loan Program under part D of title IV of such Act (20 U.S.C. 1087a et seq.), and the Federal Perkins Loan Program under part E of title IV of such Act (20 U.S.C. 1087aa et seq.), which are promulgated under sections 682.210, 685.204, and 674.34 of title 34, Code of Federal Regulations, to comply with the requirements of subsection (b).

(b) REQUIREMENTS.—The student loan repayment deferment regulations shall be revised to provide, with respect to a borrower who is in a postgraduate medical or dental internship, residency, or fellowship program, that if the borrower qualifies for student loan repayment deferment under the economic hardship provision—

(1) the deferment shall be available for the length of the internship, residency, or fellowship program if the program—

(A) must be successfully completed by the borrower before the borrower may begin professional practice or service; or

(B) leads to a degree or certificate awarded by a health professional school, hospital, or health care facility that offers postgraduate training; and

(2) the borrower shall not be required to apply annually for such student loan repayment deferment during the length of the program.

By Mr. DODD (for himself, Ms. MIKULSKI, Ms. LANDRIEU, Mr. LEVIN, Ms. CANTWELL, and Mr. KERRY):

S. 1247. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce, along with Senators MIKULSKI, LANDRIEU, LEVIN, CANTWELL and KERRY, the Youth Service Scholarship Act. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 a year to high school students and undergraduates who perform community service.

A recent study titled Community Service and Service Learning in U.S. Public Schools reveals that 66 percent of public schools involve students in community service. This means that approximately 54,000 public schools in America currently engage about 13.7 million students in community service each year. Other studies have shown that nearly 84 percent of high school students participate in volunteer activities either in or out of school and two-thirds of college students have recently participated in volunteer activities.

The Youth Service Scholarship Act is designed to assist low-income students who dedicate a significant portion of their time to volunteer service with money for college. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 to high school students who perform over 300 hours of community service in both their junior and senior years. In order to be considered, high school applicants must maintain a 3.0 grade point average, submit character recommendations, and write an essay

on the nature of their community service. Additional money will be available if the student continues to participate in a significant amount of community service once they are in college.

Voluntarism not only brings support and services to communities in need, it provides significant benefits to the students who participate. Research has shown that students who volunteer are 50 percent less likely to use drugs and alcohol or engage in destructive behavior. Additionally, students who volunteer are more likely to receive good grades, be philanthropic, graduate, and be interested in going to college.

In the 21st Century, higher education is not a luxury, it is a necessity. For many of our low-income youth, finding money to pay for college is an obstacle to enrollment. This scholarship program provides aid to motivated and inspired youth.

I urge my colleagues to join me in supporting the Youth Service Scholarship Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1247

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 ''Youth Service Scholarship Act of 2005''.

SEC. 2. FINDINGS.

Congress finds that—

(1) young people under 18 years of age are now our Nation's most impoverished age group, with 1 of every 5 living in poverty, a higher proportion than in 1968, and the percentage of minority children living in poverty is about twice as high;

(2) more than 1 of 4 families is headed by a single parent and the percentage of such families has risen steadily over the past few decades, rising 13 percent since 1990;

(3) there is a need to engage youth as active participants in decisionmaking that affects their lives, including in the design, development, implementation, and evaluation of youth development programs at the Federal, State, and community levels;

(4) existing outcome driven youth development strategies, pioneered by community-based organizations, hold real promise for promoting positive behaviors and preventing youth problems;

(5) formal evaluations of youth development programs have documented significant reductions in drug and alcohol use, school misbehavior, aggressive behavior, violence, truancy, high-risk sexual behavior, and smoking;

(6) compared to youth in the United States generally, youth participating in community-based organizations are more than 26 percent more likely to report having received recognition for good grades than youth in the United States generally and nearly 20 percent more likely to rate the likelihood of their going to college as very high; and

(7) the availability and use of Federal resources can be an effective incentive to leverage broader community support to enable local programs, activities, and services to provide the full array of developmental core resources, remove barriers to access, promote program effectiveness, and facilitate coordination and collaboration within the community.

SEC. 3. ESTABLISHMENT OF PROGRAM.

Subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) is amended—

(1) by redesignating section 407E as section 406E; and

(2) by adding at the end the following:

''CHAPTER 4—PUBLIC SERVICE INCENTIVES

''SEC. 407A. PURPOSE.

''The purpose of this chapter is to establish a scholarship program to reward low-income students who have, during high school, and who continue, during college, to make significant public service contributions to their communities.

''SEC. 407B. SCHOLARSHIPS AUTHORIZED.

''(a) QUALIFICATIONS FOR SCHOLARSHIPS.—The Secretary is authorized to award a scholarship to enable a student to pay the cost of attendance at an institution of higher education during the student's first 4 academic years of undergraduate education, if the student—

''(1) in order to be eligible for the first year of such scholarship, performed not less than 300 hours of qualifying public service during each of 2 academic years of the student's secondary school enrollment;

''(2) in order to be eligible for the second or any subsequent year of such scholarship, performed not less than 300 hours of qualifying public service during the academic year of postsecondary school attendance preceding the academic year for which the student seeks such scholarship;

''(3) was eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1721 et seq.);

''(4) is eligible to receive Federal Pell Grants for the year in which the scholarships are awarded, except that a student shall not be required to comply or verify compliance with section 484(a)(5) for purposes of receiving a scholarship under this chapter; and

''(5) otherwise demonstrates compliance with regulations prescribed by the Secretary under section 407G.

''(b) DEFINITION OF QUALIFYING PUBLIC SERVICE.—For purposes of subsection (a), the term 'qualifying public service' means service that would be eligible for treatment as community service under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or under the Federal work-study program under part C.

''SEC. 407C. AMOUNT OF SCHOLARSHIP.

''(a) AMOUNT OF AWARD.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), the amount of a scholarship awarded under this chapter for any academic year shall be equal to $5,000.

''(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of students selected under section 407D for an academic year, funds available to carry out this chapter for the academic year are insufficient to fully fund all awards under this chapter for the academic year, the amount of the scholarship paid to each student under this chapter shall be reduced proportionately.

''(b) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

''SEC. 407D. SELECTION OF SCHOLARSHIP RECIPIENTS.

''The Secretary shall designate a panel to select students for the award of scholarships under this chapter. Such panel shall be composed of 9 individuals who are selected by the Secretary and shall be composed of equal numbers of youths, community representatives, and teachers. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

''SEC. 407E. APPLICATIONS.

''Any eligible student desiring to obtain a scholarship under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require. Such application shall—

''(1) demonstrate that the eligible student is maintaining satisfactory academic progress and is achieving a grade point average of at least 3.0 (on a scale of 4), or its equivalent;

''(2) include a recommendation from—

''(A) the supervisor of the community service project of the applicant; and

''(B) another individual not related to, but familiar with the character of the applicant such as a teacher, coach, or employer; and

''(3) include an essay by the applicant on the nature of the community service performed by the applicant.

''SEC. 407F. PROGRAM DISSEMINATION AND PROMOTION.

''(a) DEVELOPMENT AND DISSEMINATION.—The Secretary shall develop and disseminate to the public information on the availability of, and application process for, scholarships under this chapter.

''(b) PROMOTION.—In disseminating information about the scholarship program under this chapter, the Secretary shall—

''(1) disseminate such information directly or through arrangements with local educational agencies, public and private elementary schools and secondary schools, nonprofit organizations, consumer groups, Federal, State, or local agencies, and the media; and

''(2) at a minimum, include a description and the purpose of the scholarship program, an explanation of how to obtain an application, and a description of the application process and procedures.

''SEC. 407G. REGULATIONS.

''The Secretary shall prescribe such regulations as may be necessary to carry out this chapter.

''SEC. 407H. EVALUATION.

''Not earlier than 2 years after the first fiscal year for which funds are made available under this chapter, the Secretary shall prepare and submit to Congress an evaluation of the effectiveness of the program under this chapter. Such evaluation shall include—

''(1) an evaluation of the demand, by grade level and types of community service sites, for the scholarships provided under this chapter;

''(2) general data on the background of program participants and the types of service performed; and

''(3) an itemization of the costs of administering the program under this chapter.

''SEC. 407I. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 2006 and such sums as are necessary for each of the 3 succeeding fiscal years.''.

By Ms. LANDRIEU (for herself, Mr. LEVIN, and Mr. SCHUMER):

S. 1248. A bill to establish a servitude and emancipation archival research clearinghouse in the National Archives; to the Committee on Homeland Security and Governmental Affairs.

Ms. LANDRIEU. Mr. President, I rise today to commemorate the 140th anniversary on this upcoming Sunday of Major General Gordon Granger and his Union soldiers' arrival in Galveston, TX. On that day in 1865, these troops brought with them the news that the war had ended and that the enslaved peoples were henceforth free. Since its origin in 1865, the observance of June 19 as African American Emancipation Day, or Juneteenth, is the oldest known celebration of slavery's end.

It took two and a half years from the time that President Lincoln's Emancipation Proclamation went into effect for the news of freedom to arrive in Texas. That it took 2 years for African Americans to learn that the war was over, and that they were now free seems absurd in our information age. Yet, despite the transformation made in our society by computers, networks and the internet, there are still gaps in the information accessible to African Americans around this country. The bill that I introduce today attempts to address one of them.

Mr. President, it is a very human instinct for people to want to understand who they are from the lense of who are their ancestors and where they are from. The very commercially successful, and critically acclaimed television series ''Roots'' was a seminal event in this nation's interest in genealogy. Yet while people across the nation were inspired by Alex Haley's tale to understand their own family history, African Americans trying to do the same confronted unique challenges. Unfortunately, African Americans who attempt to trace their genealogy encounter huge hurdles in reclaiming the usual documentary history that allows most Americans to piece together their heritage. For this reason, I am proposing the Servitude and Emancipation Archival Research Clearing House, SEARCH, Act of 2005. This bill establishes a national database within the National Archives and Records Administration, NARA, housing various documents that would assist those in search of a history that, because of slavery, is almost impossible to find in the most ordinary registers and census records.

Traditionally, someone researching their genealogy would try looking up wills and land deeds; however, enslaved African Americans were prohibited from owning property. In fact, African Americans, must frequently rely on the records of slave owners—most of which are in private hands—in hope that they had kept records containing birth and death information. Even if records do exist, many African Americans in the past did not have formal last names, thus compounding the difficulty of tracing their lives. The omission of surnames also precludes use of the most popular and major source of genealogical research, the United States Census. Furthermore, letters, diaries, and other first-person records used by most genealogical researchers are scarcely available for slaves, owing to the fact that they could not legally learn to read or write.

We may think that after 1865, African Americans could begin using traditional genealogical records like voter registrations and school records. However, African Americans did not immediately begin to participate in many of the privileges of citizenship, including voting and attending school. Discrimination meant that African Americans were barred from sitting on juries or owning businesses. Segregation meant segregated neighborhoods, schools, churches, clubs, and fraternal organizations, and thus segregated societies maintained segregated records. For example, some telephone directories in South Carolina did not include African Americans in the regular alphabetical listing, but rather at the end of the book. An African American must maneuver these distinctive nuances in order to conduct proper genealogical research. In my own State of Louisiana, descendants of the 9th Cavalry Regiment and 25th Infantry Regiment, known as the Buffalo Soldiers, would have to know to look in the index of United States Colored Troops since there is no mention of them in the index of State Military Regiments.

Abraham Lincoln said, ''A man who cares nothing about his past can care little about his future.'' By providing $5 million for the National Historical Publications and Records Commission to establish and maintain a national database, the SEARCH Act has the potential to significantly reduce the time and painstaking efforts of those African Americans who truly care about their American past to contribute to the American future. This bill also seeks to authorize $5 million for States, colleges, and universities to preserve, catalogue, and index records locally.

In a democracy, records matter. The mission of NARA is to ensure that anyone can have access to the records that matter to them. The SEARCH Act of 2005 seeks to fulfill that mission by helping African Americans navigate genealogical research sources and negotiate the unique challenges that confront them in this process. No longer should any American have to wait to learn information, which in itself can offer such freedom.

I hope my colleagues will join me in celebrating the 140th anniversary of Juneteenth by passing this measure. 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. 1248

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 ''Servitude and Emancipation Archival Research ClearingHouse Act of 2005'' or the ''SEARCH Act of 2005''.

SEC. 2. ESTABLISHMENT OF DATABASE.

(a) IN GENERAL.—The Archivist of the United States shall establish, as a part of the National Archives, a national database consisting of historic records of servitude and emancipation in the United States to assist African Americans in researching their genealogy.

(b) MAINTENANCE.—The database established by this Act shall be maintained by the National Historical Publications and Records Commission.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $5,000,000 to establish the national database authorized by this Act; and''

(2) $5,000,000 to provide grants to States and colleges and universities to preserve local records of servitude and emancipation.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 171—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT SHOULD SUBMIT TO CONGRESS A REPORT ON THE TIME FRAME FOR THE WITHDRAWAL OF UNITED STATES TROOPS FROM IRAQ

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 171

Whereas United States forces in Iraq have served with courage and distinction and they and their families deserve to know what exactly their mission is and approximately how long they may expect to remain in Iraq;

Whereas establishing time frames for the transfer of sovereignty and for elections in Iraq has resulted in real political and strategic advantages for the United States and has advanced the development of democracy in Iraq;

Whereas establishing a clear time frame for the withdrawal of United States troops from Iraq would help to refute conspiracy theories and eliminate suspicions that obstruct the United States policy goals in Iraq and undermine the legitimacy of the Government of Iraq;

Whereas President George W. Bush stated on April 13, 2004 that ''as a proud and independent people, Iraqis do not support an indefinite occupation and neither does America'' and that United States troops will remain in Iraq ''as long as necessary and not one day more'';

Whereas a sound strategic plan for United States military operations in Iraq would include information regarding the numbers of Iraqi troops that must be effectively trained and the amount of time that will be required to train them;

Whereas the President has declined to set out specific goals for the United States military operations in Iraq or a clear time frame for achieving such goals;

Whereas a clear plan and time frame for United States military operations in Iraq would facilitate more responsible budgeting for the costs of United States operations in Iraq; and

Whereas confusion about the United States mission in Iraq does not serve the United States vital interests in establishing stability in Iraq or fighting the terrorist networks that continue to threaten the United States: Now, therefore, be it

Resolved, That—

(1) the Senate—

(A) supports the men and women of the Armed Forces of the United States in Iraq and deeply appreciates their admirable service; and

(B) recognizes that stability, democracy, and respect for the rule of law in Iraq are in the United States national interest; and

(2) it is the sense of the Senate that—

(A) the United States should remain committed to providing long-term diplomatic and political support to the people of Iraq to achieve stability and democracy;

(B) the United States should work diligently to accelerate the sound and effective training of Iraqi security forces and to increase international cooperation in this endeavor so that the people of Iraq may assume responsibility for their own security;

(C) the United States should continue to pursue a robust and multi-faceted campaign to dismantle and defeat international terrorist networks in Iraq and around the world; and

(D) not later than 30 days after the date that the Senate agrees to this resolution, the President should submit to Congress a report that describes—

(i) the remaining mission of the Armed Forces of the United States in Iraq;

(ii) current estimates of the time frame required for the United States to achieve that mission, including information regarding variables that could alter that time frame; and

(iii) a time frame for the subsequent withdrawal of United States troops from Iraq.

Mr. FEINGOLD. Mr. President, today, I am submitting a resolution that addresses a gaping hole in the administration's rhetoric and strategy with respect to Iraq. My resolution calls on the President to define the mission of our military in Iraq, and to issue a plan and timeframe for accomplishing that mission. It has been over 2 years since the President launched the war in Iraq, but we still don't have a defined mission or timeframe that would allow us to hold ourselves accountable for giving the military the tools they need to succeed in achieving those goals. My resolution also calls for a plan for the subsequent withdrawal of U.S. troops, so that we can provide some clarity with regard to our intentions and restore confidence at home and abroad that there is an end date in mind.

This resolution does not establish a timeframe for troop withdrawal—that is for our military commanders to determine. Any such timeframe has to be flexible—there are variables that will affect how quickly various missions can be accomplished. But it's hard to conceive of an effective strategic plan that isn't linked to some timetables.

The rationale for our military action in Iraq has changed over time. The projections regarding the resources that would be required were wrong. And now we seem to be in the midst of some vague policy of muddling through. When I speak to servicemen and women in Wisconsin and in Iraq, and when I speak to their families, their pride in their service is evident and it is well-earned. But their frustration with this open-ended commitment, with the stop-loss orders and the multiple deployments, with the extensions and the uncertainties, is equally evident, and it is painful. We can do better by them, by insisting on clarity, by insisting on accountability, and by assuring them that we have a plan with clear and achievable goals.

In fact, by leveling with the American people about our commitment in Iraq, the administration can regain some of their confidence. After the shifting justifications for this war, after the premature declarations of ''mission accomplished,'' after the exciting and inspiring elections, we still don't have any kind of finish line for our military engagement in Iraq. The American people and our troops deserve a sound plan that is linked to real timeframes and real achievements.

A real timeframe will also help us achieve our security goals in Iraq. The most common argument against clarifying how long we plan to keep troops in Iraq goes something like this: If we reveal a timetable, insurgents and terrorists will simply lie in wait, emerging in force to achieve their goals once we are gone.

But any responsible timetable for U.S. withdrawal would be based just on the establishment of a competent Iraqi force. Americans won't leave until that force has the training it needs to succeed. An Iraqi force, which would not suffer from shortages of translators or struggle to bridge the cultural divide, is the right force to handle any resurgent threat.

Contrary to the conventional wisdom, the administration's refusal to set a plan and timetable about just how long vast numbers of U.S. troops will remain in Iraq is actually an advantage for insurgents and terrorists. This large U.S. military presence smack in the middle of the Arab world is a major recruiting tool for international terrorist networks, and young men are coming to Iraq from around the world to get on-the-job training in attacking Americans. These foreign forces are motivated by our presence, and they feed off conspiracy theories and suspicions regarding American intentions. When I was in Baghdad in February, a very senior coalition officer confided to me that he believed a public U.S. timetable for withdrawing from Iraq would ''take the wind out of the sails'' of the insurgents.

What's more, the indefinite presence of vast numbers of American troops could also undercut the legitimacy of the Iraqi government in the eyes of many—ironically, destabilizing Iraq despite our best intentions. Having a timetable for the transfer of sovereignty and having a timetable for Iraqi elections have resulted in real political and strategic advantages for the U.S. Having a timetable for the withdrawal of troops should be no different.

Clear plans could also help lead to responsible budgeting. This administration has bypassed the regular budget process, placing hundreds of billions of dollars on the country's tab, on the grounds that requirements are simply ''unknowable'' and cannot be incorporated into responsible budget planning. This is simply not credible, and continuing to mortgage our children's future with these irresponsible policies is unacceptable. It is time to hold ourselves accountable for the costs of this war, time to accept the tough choices that come with responsible budgeting, and time to insist on sound planning and clarity about all of this is going.

This resolution is not some kind of cut-and-run strategy, or a call to bring all of our troops home now, regardless of what remains to be achieved on the ground. It is clear to me that we still have military missions on the ground—most notably, training the Iraqi forces to provide for their own security. Moreover, a military response—as well as a diplomatic response, and a financial response—is vital in combating terrorist networks in Iraq and elsewhere. It may well be that some units—perhaps special forces—will be operating in Iraq in coordination with the Iraqi military well into the future as part of the counterterrorism strategy that we need to be pursuing around the world, not just in Iraq.

But Mr. President, the military is only one part of solving the puzzle that we face in Iraq. For many years to come, we will have to work diligently to combat a burgeoning culture of corruption in Iraq, or the rule of law doesn't stand a chance. We need to make reconstruction work and deliver real democracy dividends for the Iraqi people, and this work will go on for some time. Intense American diplomatic and political engagement and support are likely to continue long after all or most of the troops are withdrawn.

Our troops on the ground are truly amazing in their resolve, their professionalism, and their sincere desire to help the people of Iraq. Their courage and commitment was underscored for me during my trip to Iraq earlier this year. I want to help these brave men and women succeed, by insuring that they have an achievable mission, sound planning, and a reasonable timeframe in which to finish their part of the job.

AMENDMENTS SUBMITTED AND PROPOSED

SA 775. Mr. DOMENICI proposed an amendment to the bill H.R. 6, Reserved.

SA 776. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 777. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 606, to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes which was ordered to lie on the table.

SA 778. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table.

SA 779. Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON, of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL,

Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) proposed an amendment to the bill H.R. 6, supra.

SA 780. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

SA 781. Mrs. BOXER proposed an amendment to amendment SA 779 proposed by Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) to the bill H.R. 6, supra.

SA 782. Mr. SCHUMER proposed an amendment to amendment SA 779 proposed by Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) to the bill H.R. 6, supra.

SA 783. Mr. NELSON, of Florida (for himself, Mr. MARTINEZ, Mr. CORZINE, Mrs. BOXER, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. KERRY, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 6, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 775. Mr. DOMENICI proposed an amendment to the bill H.R. 6, Reserved; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Energy Policy Act of 2005''.

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

SEC. 2. DEFINITIONS.

In this Act:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(3) NATIONAL LABORATORY.—The term ''National Laboratory'' means any of the following laboratories owned by the Department:

(A) Ames Laboratory.

(B) Argonne National Laboratory.

(C) Brookhaven National Laboratory.

(D) Fermi National Accelerator Laboratory.

(E) Idaho National Laboratory.

(F) Lawrence Berkeley National Laboratory.

(G) Lawrence Livermore National Laboratory.

(H) Los Alamos National Laboratory.

(I) National Energy Technology Laboratory.

(J) National Renewable Energy Laboratory.

(K) Oak Ridge National Laboratory.

(L) Pacific Northwest National Laboratory.

(M) Princeton Plasma Physics Laboratory.

(N) Sandia National Laboratories.

(O) Stanford Linear Accelerator Center.

(P) Thomas Jefferson National Accelerator Facility.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(5) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

TITLE I—ENERGY EFFICIENCY

Subtitle A—Federal Programs

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

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

(1) by redesignating section 551 (42 U.S.C. 8259) as section 553; and

(2) by inserting after section 550 (42 U.S.C. 8258b) the following:

''SEC. 551. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.

''(a) DEFINITIONS.—In this section:

''(1) CONGRESSIONAL BUILDING.—The term 'congressional building' means a facility administered by Congress.

''(2) PLAN.—The term 'plan' means an energy conservation and management plan developed under subsection (b)(1).

''(b) PLAN.—

''(1) IN GENERAL.—The Architect of the Capitol shall develop, update, and implement a cost-effective energy conservation and management plan for congressional buildings to meet the energy performance requirements for Federal buildings established under section 543(a)(1).

''(2) REQUIREMENTS.—The plan shall include—

''(A) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

''(B) a schedule that ensures that complete energy surveys of all congressional buildings are conducted every 5 years to determine the cost and payback period of energy and water conservation measures;

''(C) a strategy for installation of life-cycle cost-effective energy and water conservation measures;

''(D) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

''(E) information packages and 'how-to' guides for each Member and employing authority of Congress that describe simple and cost-effective methods to save energy and taxpayer dollars in congressional buildings.

''(3) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of enactment of the Energy Policy Act of 2005, the Architect of the Capitol shall submit to Congress the plan developed under paragraph (1).

''(c) ANNUAL REPORT.—

''(1) IN GENERAL.—The Architect of the Capitol shall annually submit to Congress a report on congressional energy management and conservation programs carried out for congressional buildings under this section.

''(2) REQUIREMENTS.—A report submitted under paragraph (1) shall describe in detail—

''(A) energy expenditures and savings estimates for each congressional building;

''(B) any energy management and conservation projects for congressional buildings; and

''(C) future priorities to ensure compliance with this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act is amended—

(1) by redesignating the item relating to section 551 as section 553; and

(2) by inserting after the item relating to section 550 the following:

''Sec. 551. Energy and water savings measures in congressional buildings.''.

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

(d) ENERGY INFRASTRUCTURE.—

(1) IN GENERAL.—The Architect of the Capitol, building on the Master Plan Study for the Capitol complex completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capitol complex to determine how to augment the infrastructure to become more energy efficient—

(A) by using unconventional and renewable energy resources; and

(B) in a manner that would enable the Capitol complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 102. ENERGY MANAGEMENT REQUIREMENTS.

(a) ENERGY REDUCTION GOALS.—Section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)) is amended—

(1) in paragraph (1), by striking ''Subject to'' and all that follows and inserting ''(A) 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 for each gross square foot of the Federal buildings of the agency for fiscal years 2006 through 2015 is reduced, as compared with the energy consumption for each gross square foot of the

Federal buildings of the agency for fiscal year 2004, by the percentage specified in the following table:

"Fiscal Year	Percentage reduction
2006	2
2007	4
2008	6
2009	8
2010	10
2011	12
2012	14
2013	16
2014	18
2015	20.

''(B) The energy reduction goals and baseline established in subparagraph (A) supersede—

''(i) all goals and baselines under this paragraph in effect on the day before the date of enactment of this subparagraph; and

''(ii) any related reporting requirements.''; and

(2) by adding at the end the following:

''(3) Not later than December 31, 2013, the Secretary shall—

''(A) review the results of the implementation of the energy performance requirement established under paragraph (1); and

''(B) submit to Congress recommendations concerning energy performance requirements for each of fiscal years 2015 through 2024.''.

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

(1) in paragraph (1), by striking ''An agency may exclude'' and all that follows and inserting ''(A) An agency may exclude, from the energy performance requirement for a fiscal year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—

''(i) compliance with those requirements would be impracticable;

''(ii) the agency has completed and submitted all federally required energy management reports;

''(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), Executive orders, and other Federal law; and

''(iv) the agency has implemented all practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.

''(B) A finding of impracticability under subparagraph (A)(i) shall be based on—

''(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or

''(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.'';

(2) in paragraph (2)—

(A) in the second sentence—

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

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

(B) in the third sentence, by striking ''energy consumption requirements'' and inserting ''requirements of subsections (a) and (b)(1)''; and

(3) 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).''.

(c) RETENTION OF ENERGY AND WATER SAVINGS.—Section 546 of the National Energy Conservation Policy Act (42 U.S.C. 8256) is amended—

(1) in subsection (d)(2)(G), by inserting ''of the Energy Policy Act of 1992 (42 U.S.C. 8262e)'' after ''159''; and

(2) by adding at the end the following:

''(e) RETENTION OF ENERGY AND WATER SAVINGS.—(1) An agency may retain any funds appropriated to the agency for energy expenditures, water expenditures, or wastewater treatment expenditures, at buildings subject to the requirements of subsections (a) and (b) of section 543, that are not expended because of energy savings or water savings.

''(2) Except as otherwise provided by law, funds described in paragraph (1) may be used by an agency only for energy efficiency, water conservation, or unconventional and renewable energy resources projects.''.

(d) 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''.

(e) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking ''the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).'' and inserting ''each of the energy reduction goals established under section 543(a).''.

SEC. 103. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.

Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is amended by adding at the end the following:

''(e) METERING OF ENERGY USE.—(1)(A) Not later than October 1, 2012, in accordance with guidelines established by the Secretary under paragraph (2), each Federal building shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in the building, be metered or submetered.

''(B) Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily on, and that measure at least hourly, consumption of electricity in the Federal buildings of the agency.

''(C) The data shall be—

''(i) incorporated into Federal energy tracking systems; and

''(ii) made available to Federal facility energy managers.

''(2)(A) Not later than 180 days after the date of enactment of this subsection, the Secretary (in consultation with the Secretary of Defense, the Administrator of General Services, representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, energy efficiency advocacy organizations, national laboratories, and universities, and Federal facility energy managers) shall establish guidelines for agencies to carry out paragraph (1).

''(B) 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 because of utility contract aggregation; and

''(III) the measurement and verification protocols of the Department of Energy;

''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;

''(iii) establish priorities for types and locations of buildings to be metered and submetered based on cost-effectiveness and a schedule of 1 or more dates, not later than 1 year after the date of issuance of the guidelines, on which paragraph (1) takes effect; and

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

''(3) Not later than 180 days after the date on which guidelines are established under paragraph (2), in a report submitted by an agency under section 548(a), the agency shall submit to the Secretary a plan describing the manner in which the agency will implement paragraph (1), including—

''(A) the manner in which the agency will designate personnel primarily responsible for carrying out that implementation; and

''(B) demonstration by the agency, complete with documentation, of any finding that the use of advanced meters or advanced metering devices described in paragraph (1) is not practicable.''.

SEC. 104. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) (as amended by section 101(a)) is amended by inserting after section 551 the following:

''SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.

''(a) DEFINITIONS.—In this section:

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

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

''(3) The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

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

''(b) PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.—(1) Except as provided in paragraph (2), to meet the requirements of an executive agency for an energy consuming product, the head of the executive agency shall procure—

''(A) an Energy Star product; or

''(B) a FEMP designated product.

''(2) The head of an executive agency shall not be required to comply with paragraph (1) if the head of the executive agency specifies in writing that—

''(A) taking into account energy cost savings, an Energy Star product or FEMP designated product is not cost-effective over the life of the product; or

''(B) no Energy Star product or FEMP designated product is reasonably available that meets the functional requirements of the executive agency.

''(3) The head of an executive agency shall incorporate criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and FEMP designated products into—

''(A) the specifications for any procurements involving energy consuming products and systems, including—

''(i) guide specifications;

''(ii) project specifications; and

''(iii) construction, renovation, and services contracts that include the provision of energy consuming products and systems; and

''(B) the factors for the evaluation of offers received for the procurement.

''(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—(1) Any inventory or listing of products by the General Services Administration or the Defense Logistics Agency shall clearly identify and prominently display Energy Star products and FEMP designated products.

''(2)(A) Except as provided in subparagraph (B), the General Services Administration or the Defense Logistics Agency shall supply only Energy Star products or FEMP designated products for all product categories covered by the Energy Star program or the Federal Energy Management Program.

''(B) Subparagraph (A) shall not apply if an agency ordering a product specifies in writing that—

''(i) taking into account energy cost savings, no Energy Star product or FEMP designated product is cost-effective for the intended application over the life of the product; or

''(ii) no Energy Star product or FEMP designated product is available to meet the functional requirements of the ordering agency.

''(d) SPECIFIC PRODUCTS.—(1) In the case of an electric motor of 1 to 500 horsepower, an executive agency shall select only a premium efficient motor that meets the standard established by the Secretary under paragraph (2).

''(2) Not later than 120 days after the date of enactment of this subsection and after considering the recommendations of associated electric motor manufacturers and energy efficiency groups, the Secretary shall establish a standard for premium efficient motors.

''(3)(A) Each Federal agency is encouraged to take actions (such as appropriate cleaning and maintenance) to maximize the efficiency of air conditioning and refrigeration equipment, including the use of a system treatment or additive that—

''(i) would reduce the electricity consumed by air conditioning and refrigeration equipment; and

''(ii) meets the criteria specified in subparagraph (B).

''(B) A system treatment or additive referred to in subparagraph (A) shall be—

''(i) determined by the Secretary to be effective in increasing the efficiency of air conditioning and refrigeration equipment without having an adverse impact on—

''(I) air conditioning and refrigeration performance (including cooling capacity); or

''(II) the useful life of the equipment;

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

''(iii) shown, in tests conducted by the National Institute of Standards and Technology, in accordance with Department of Energy test procedures, to increase the seasonal energy efficiency ratio (SEER) or energy efficiency ratio (EER) without having any adverse impact on the system, system components, the refrigerant or lubricant, or other materials in the system.

''(4) The results of the tests described in paragraph (3)(B)(iii) shall be published in the Federal Register for public review and comment.

''(5) For purposes of this subsection, a hardware device or primary refrigerant shall not be considered an additive.

''(e) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue guidelines to carry out this section.''.

(b) CONFORMING AMENDMENT.—The table of contents of the National Energy Conservation Policy Act (as amended by section 101(b)) is amended by inserting after the item relating to section 551 the following:

''Sec. 552. Federal procurement of energy efficient products.''.

SEC. 105. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) PERMANENT EXTENSION.—Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is amended by striking ''2006'' and inserting ''2016''.

(b) EXTENSION OF AUTHORITY.—Any energy savings performance contract entered into under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) after October 1, 2003, and before the date of enactment of this Act, shall be considered to have been entered into under that section.

SEC. 106. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.

(a) DEFINITION OF ENERGY INTENSITY.—In this section, the term ''energy intensity'' means the primary energy consumed for each unit of physical output in an industrial process.

(b) VOLUNTARY AGREEMENTS.—The Secretary may enter into voluntary agreements with 1 or more persons in industrial sectors that consume significant quantities of primary energy for each unit of physical output to reduce the energy intensity of the production activities of the persons.

(c) GOAL.—Voluntary agreements under this section shall have as a goal the reduction of energy intensity by not less than 2.5 percent each year during the period of calendar years 2007 through 2016.

(d) RECOGNITION.—The Secretary, in cooperation with other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.

(e) TECHNICAL ASSISTANCE.—A person 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 each of June 30, 2012, and June 30, 2017, the Secretary shall submit to Congress a report that—

(1) evaluates the success of the voluntary agreements under this section; and

(2) provides independent verification of a sample of the energy savings estimates provided by participating firms.

SEC. 107. FEDERAL BUILDING PERFORMANCE STANDARDS.

Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—

(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989'' and inserting ''the 2004 International Energy Conservation Code (in the case of residential buildings) or ASHRAE Standard 90.1–2004''; and

(2) by adding at the end the following:

''(3)(A) Not later than 1 year after the date of enactment of this paragraph, the Secretary shall establish, by rule, revised Federal building energy efficiency performance standards that require that—

''(i) if life-cycle cost-effective for new Federal buildings—

''(I) the buildings be designed to achieve energy consumption levels that are at least 30 percent below the levels established in the version of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, that is in effect as of the date of enactment of this paragraph; and

''(II) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings; and

''(ii) if water is used to achieve energy efficiency, water conservation technologies shall be applied to the extent that the technologies are life-cycle cost-effective.

''(B) Not later than 1 year after the date of approval of each subsequent revision of the ASHRAE Standard or the International Energy Conservation Code, as appropriate, the Secretary shall determine, based on the cost-effectiveness of the requirements under the amendment, whether the revised standards established under this paragraph should be updated to reflect the amendment.

''(C) In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—

''(i) a list of all new Federal buildings owned, operated, or controlled by the Federal agency; and

''(ii) a statement specifying whether the Federal buildings meet or exceed the revised standards established under this paragraph.''.

SEC. 108. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

(a) AMENDMENT.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:

''INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

''SEC. 6005. (a) DEFINITIONS.—In this section:

''(1) AGENCY HEAD.—The term 'agency head' means—

''(A) the Secretary of Transportation; and

''(B) the head of any other Federal agency that, on a regular basis, procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

''(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—

''(A) involves the procurement of cement or concrete; and

''(B) is carried out, in whole or in part, using Federal funds.

''(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—

''(A) ground granulated blast furnace slag;

''(B) coal combustion fly ash; and

''(C) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.

''(b) IMPLEMENTATION OF REQUIREMENTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section (including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.

''(2) PRIORITY.—In carrying out paragraph (1), an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.

''(3) FEDERAL PROCUREMENT REQUIREMENTS.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.

''(c) FULL IMPLEMENTATION STUDY.—

''(1) IN GENERAL.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.

''(2) MATTERS TO BE ADDRESSED.—The study shall—

''(A) quantify—

''(i) the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of procurement requirements; and

''(ii) the energy savings and environmental benefits associated with the substitution;

''(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from the law; and

''(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;

''(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and

''(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.

''(3) REPORT.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.

''(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the date on which the report under subsection (c)(3) is submitted, take additional actions under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects—

''(1) to realize more fully the energy savings and environmental benefits associated with increased substitution; and

''(2) to eliminate barriers identified under subsection (c)(2)(B).

''(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).''.

(b) CONFORMING AMENDMENT.—The table of contents of the Solid Waste Disposal Act is amended by adding after the item relating to section 6004 the following:

''Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.''.

Subtitle B—Energy Assistance and State Programs

SEC. 121. 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 2006, $400,000,000 for fiscal year 2007, and $500,000,000 for fiscal year 2008''.

SEC. 122. 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)(1) The Secretary shall, at least once every 3 years, invite the Governor of each State to review and, if necessary, revise the energy conservation plan of the State submitted under subsection (b) or (e).

''(2) A review conducted under paragraph (1) should—

''(A) consider the energy conservation plans of other States within the region; and

''(B) identify opportunities and actions carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY EFFICIENCY GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''STATE ENERGY EFFICIENCY GOALS

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2005—

''(1) 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 2012 as compared to calendar year 1992; and

''(2) may contain interim goals.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary'' and inserting ''$100,000,000 for each of fiscal years 2006 and 2007 and $125,000,000 for fiscal year 2008''.

SEC. 123. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that meets the requirements of subsection (b).

(2) ENERGY STAR PROGRAM.—The term ''Energy Star program'' means the program established by section 324A of the Energy Policy and Conservation Act (as added by section 131(a)).

(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.

(4) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322).

(5) STATE PROGRAM.—The term ''State program'' means a State energy efficient appliance rebate program described in subsection (b)(1).

(b) ELIGIBLE STATES.—A State shall be eligible to receive an allocation under subsection (c) if the State—

(1) establishes (or has established) a State energy efficient appliance rebate program to provide rebates to residential consumers for the purchase of residential Energy Star products to replace used appliances of the same type;

(2) submits an application for the allocation at such time, in such form, and containing such information as the Secretary may require; and

(3) provides assurances satisfactory to the Secretary that the State will use the allocation to supplement, but not supplant, funds made available to carry out the State program.

(c) AMOUNT OF ALLOCATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), for each fiscal year, the Secretary shall allocate to the State energy office of each eligible State to carry out subsection (d) an amount equal to the product obtained by multiplying—

(A) the amount made available under subsection (f) for the fiscal year; and

(B) by the ratio that—

(i) the population of the State in the most recent calendar year for which data are available; bears to

(ii) the total population of all eligible States in that calendar year.

(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than such minimum amount as shall be determined by the Secretary.

(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay not more than 50 percent of the cost of establishing and carrying out a State program.

(e) ISSUANCE OF REBATES.—

(1) IN GENERAL.—A rebate may be provided to a residential consumer that meets the requirements of the State program.

(2) AMOUNT.—The amount of a rebate shall be determined by the State energy office, taking into consideration—

(A) the amount of the allocation to the State energy office under subsection (c);

(B) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and

(C) the difference between—

(i) the cost of the residential Energy Star product; and

(ii) the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to, the residential Energy Star product.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $50,000,000 for each of fiscal years 2006 through 2010.

SEC. 124. ENERGY EFFICIENT PUBLIC BUILDINGS.

(a) GRANTS.—The Secretary may make grants to the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or a State agency designated by the Governor of the State, to assist units of local government in the State in improving the energy efficiency of public buildings and facilities through—

(1) construction of new energy efficient public buildings that use at least 30 percent less energy than a comparable public building constructed in compliance with standards prescribed in—

(A) the most recent version of the International Energy Conservation Code; or

(B) a similar State code intended to achieve substantially equivalent efficiency levels; or

(2) renovation of existing public buildings to achieve reductions in energy use of at least 30 percent as compared to the baseline

energy use in the buildings before renovation, assuming a 3-year, weather-normalized average for calculating the baseline.

(b) ADMINISTRATION.—State energy offices receiving grants under this section shall—

(1) maintain any records and evidence of compliance that the Secretary may require; and

(2) to encourage planning, financing, and design of energy efficient public buildings by units of local government—

(A) develop and distribute information and materials; and

(B) conduct programs to provide technical services and assistance.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

(2) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of amounts made available under paragraph (1) shall be used for administrative expenses.

SEC. 125. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.

(a) DEFINITION OF INDIAN TRIBE.—In this section, the term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(b) GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants, on a competitive basis, to units of local government, private or nonprofit community development organizations, and economic development entities of Indian tribes—

(A) to improve energy efficiency;

(B) to identify and develop alternative, renewable, and distributed energy supplies; and

(C) to increase energy conservation in low-income rural and urban communities.

(2) ELIGIBLE ACTIVITIES.—The following activities are eligible for grants under paragraph (1):

(A) Investments that develop alternative, renewable, and distributed energy supplies.

(B) Energy efficiency projects and energy conservation programs.

(C) Studies and other activities that improve energy efficiency in low-income rural and urban communities.

(D) Planning and development assistance for increasing the energy efficiency of buildings and facilities.

(E) Technical and financial assistance to units of local government and private entities to develop new renewable and distributed sources of power or combined heat and power generation.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

SEC. 126. STATE TECHNOLOGIES ADVANCEMENT COLLABORATIVE.

(a) IN GENERAL.—The Secretary, in cooperation with the States, shall establish a cooperative program for research, development, demonstration, and deployment of technologies in which there is a common Federal and State energy efficiency, renewable energy, and fossil energy interest, to be known as the ''State Technologies Advancement Collaborative'' (referred to in this section as the ''Collaborative'').

(b) DUTIES.—The Collaborative shall—

(1) leverage Federal and State funding through cost-shared activity;

(2) reduce redundancies in Federal and State funding; and

(3) create multistate projects to be awarded through a competitive process.

(c) ADMINISTRATION.—The Collaborative shall be administered through an agreement between the Department and appropriate State-based organizations.

(d) FUNDING SOURCES.—Funding for the Collaborative may be provided from—

(1) amounts specifically appropriated for the Collaborative; or

(2) amounts that may be allocated from other appropriations without changing the purpose for which the amounts are appropriated.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to carry out this section such sums as are necessary for each of fiscal years 2006 through 2010.

SEC. 127. MODEL BUILDING ENERGY CODE COMPLIANCE GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program to provide grants to each State that the Secretary determines, with respect to new buildings in the State, achieves at least a 90-percent rate of compliance (based on energy performance) with the most recent model building energy codes.

(b) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue guidelines that standardize criteria by which a State that seeks to receive a grant under this section may—

(1) verify compliance with applicable model building energy codes; and

(2) demonstrate eligibility to receive a grant under this section.

(c) LOCAL GOVERNMENT CODES.—In the case of a State in which building energy codes are established by local governments—

(1) a local government may—

(A) apply for a grant under this section; and

(B) verify compliance and demonstrate eligibility for the grant under subsection (b); and

(2) if the Secretary determines that the local government is eligible to receive a grant, the Secretary may provide a grant to the local government.

(d) USE OF FUNDS.—Funds from a grant provided under this section may be used only to carry out activities relating to the implementation of building energy codes and building practices that exceed efficiency requirements of the most recent model building energy codes.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2006 through 2010.

(2) SET ASIDE.—Of the amounts made available under paragraph (1), the Secretary may use not more than $500,000 for each fiscal year—

(A) to develop compliance guidelines;

(B) to train State and local officials; and

(C) to administer grants provided under this section.

Subtitle C—Energy Efficient Products

SEC. 131. ENERGY STAR PROGRAM.

(a) IN GENERAL.—The Energy Policy and Conservation Act is amended by inserting after section 324 (42 U.S.C. 6294) the following:

''ENERGY STAR PROGRAM

''SEC. 324A. (a) IN GENERAL.—There is established within the Department of Energy and the Environmental Protection Agency a voluntary program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through voluntary labeling of, or other forms of communication about, products and buildings that meet the highest energy conservation standards.

''(b) DIVISION OF RESPONSIBILITIES.—Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency in accordance with the terms of applicable agreements between those agencies.

''(c) DUTIES.—The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for—

''(A) achieving energy efficiency; and

''(B) reducing pollution;

''(2) work to enhance public awareness of the Energy Star label, including by providing special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label;

''(4) regularly update Energy Star product criteria for product categories;

''(5) solicit comments from interested parties prior to establishing or revising an Energy Star product category, specification, or criterion (or prior to effective dates for any such product category, specification, or criterion);

''(6) on adoption of a new or revised product category, specification, or criterion, provide reasonable notice to interested parties of any changes (including effective dates) in product categories, specifications, or criteria, along with—

''(A) an explanation of the changes; and

''(B) as appropriate, responses to comments submitted by interested parties; and

''(7) provide appropriate lead time (which shall be 270 days, unless the Agency or Department specifies otherwise) prior to the applicable effective date for a new or a significant revision to a product category, specification, or criterion, taking into account the timing requirements of the manufacturing, product marketing, and distribution process for the specific product addressed.

''(d) DEADLINES.—The Secretary shall establish new qualifying levels—

''(1) not later than January 1, 2006, for clothes washers and dishwashers, effective beginning January 1, 2007; and

''(2) not later than January 1, 2008, for clothes washers, effective beginning January 1, 2010.''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy and Conservation Act (42 U.S.C. prec. 6201) is amended by inserting after the item relating to section 324 the following:

''Sec. 324A. Energy Star program.''.

SEC. 132. HVAC MAINTENANCE CONSUMER EDUCATION PROGRAM.

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

''(c) HVAC MAINTENANCE.—(1) To ensure that installed air conditioning and heating systems operate at maximum rated efficiency levels, the Secretary shall, not later than 180 days after the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings from properly conducted maintenance of air conditioning, heating, and ventilating systems.

''(2) The Secretary shall carry out the program under paragraph (1), on a cost-shared basis, in cooperation with the Administrator of the Environmental Protection Agency and any other entities that the Secretary determines to be appropriate, including industry trade associations, industry members, and energy efficiency organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—(1) The Administrator of the Small Business Administration, in consultation with the Secretary and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the Energy Star for Small Business Program, to assist small businesses in—

''(A) becoming more energy efficient;

''(B) understanding the cost savings from improved energy efficiency; and

''(C) identifying financing options for energy efficiency upgrades.

''(2) The Secretary and the Administrator of the Small Business Administration shall make program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Agency and the Department of Agriculture.''.

SEC. 133. PUBLIC ENERGY EDUCATION PROGRAM.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall convene an organizational conference for the purpose of establishing an ongoing, self-sustaining national public energy education program.

(b) PARTICIPANTS.—The Secretary shall invite to participate in the conference individuals and entities representing all aspects of energy production and distribution, including—

(1) industrial firms;

(2) professional societies;

(3) educational organizations;

(4) trade associations; and

(5) governmental agencies.

(c) PURPOSE, SCOPE, AND STRUCTURE.—

(1) PURPOSE.—The purpose of the conference shall be to establish an ongoing, self-sustaining national public energy education program to examine and recognize interrelationships between energy sources in all forms, including—

(A) conservation and energy efficiency;

(B) the role of energy use in the economy; and

(C) the impact of energy use on the environment.

(2) SCOPE AND STRUCTURE.—Taking into consideration the purpose described in paragraph (1), the participants in the conference invited under subsection (b) shall design the scope and structure of the program described in subsection (a).

(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance and other guidance necessary to carry out the program described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 134. ENERGY EFFICIENCY PUBLIC INFORMATION INITIATIVE.

(a) IN GENERAL.—The Secretary shall carry out a comprehensive national program, including advertising and media awareness, to inform consumers about—

(1) the need to reduce energy consumption during the 4-year period beginning on the date of enactment of this Act;

(2) the benefits to consumers of reducing consumption of electricity, natural gas, and petroleum, particularly during peak use periods;

(3) the importance of low energy costs to economic growth and preserving manufacturing jobs in the United States; and

(4) practical, cost-effective measures that consumers can take to reduce consumption of electricity, natural gas, and gasoline, including—

(A) maintaining and repairing heating and cooling ducts and equipment;

(B) weatherizing homes and buildings;

(C) purchasing energy efficient products; and

(D) proper tire maintenance.

(b) COOPERATION.—The program carried out under subsection (a) shall—

(1) include collaborative efforts with State and local government officials and the private sector; and

(2) incorporate, to the maximum extent practicable, successful State and local public education programs.

(c) REPORT.—Not later than July 1, 2009, the Secretary shall submit to Congress a report describing the effectiveness of the program under this section.

(d) TERMINATION OF AUTHORITY.—The program carried out under this section shall terminate on December 31, 2010.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $90,000,000 for each of fiscal years 2006 through 2010.

SEC. 135. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL PRODUCTS.

(a) DEFINITIONS.—Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended—

(1) in paragraph (29)—

(A) in subparagraph (D)—

(i) in clause (i), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–1010–1)'';

(ii) in clause (ii), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–3007–1)''; and

(iii) in clause (iii), by striking ''C78.1–1978(R1984)'' and inserting ''C78.81–2003 (Data Sheet 7881–ANSI–1019–1)''; and

(B) by adding at the end the following:

''(M) The term 'F34T12 lamp' (also known as a 'F40T12/ES lamp') means a nominal 34 watt tubular fluorescent lamp that is 48 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1006–1).

''(N) The term 'F96T12/ES lamp' means a nominal 60 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–3006–1).

''(O) The term 'F96T12HO/ES lamp' means a nominal 95 watt tubular fluorescent lamp that is 96 inches in length and 1½ inches in diameter, and conforms to ANSI standard C78.81–2003 (Data Sheet 7881–ANSI–1017–1).

''(P) The term 'replacement ballast' means a ballast that—

''(i) is designed for use to replace an existing ballast in a previously installed luminaire;

''(ii) is marked 'FOR REPLACEMENT USE ONLY';

''(iii) is shipped by the manufacturer in packages containing not more than 10 ballasts; and

''(iv) has output leads that when fully extended are a total length that is less than the length of the lamp with which the ballast is intended to be operated.'';

(2) in paragraph (30)(S)—

(A) by inserting ''(i)'' before ''The term''; and

(B) by adding at the end the following:

''(ii) The term ''medium base compact fluorescent lamp'' does not include—

''(I) any lamp that is—

''(aa) specifically designed to be used for special purpose applications; and

''(bb) unlikely to be used in general purpose applications, such as the applications described in subparagraph (D); or

''(II) any lamp not described in subparagraph (D) that is excluded by the Secretary, by rule, because the lamp is—

''(aa) designed for special applications; and

''(bb) unlikely to be used in general purpose applications.''; and

(3) by adding at the end the following:

''(32) The term 'battery charger' means a device that charges batteries for consumer products, including battery chargers embedded in other consumer products.

''(33)(A) The term 'commercial prerinse spray valve' means a handheld device designed and marketed for use with commercial dishwashing and ware washing equipment that sprays water on dishes, flatware, and other food service items for the purpose of removing food residue before cleaning the items.

''(B) The Secretary may modify the definition of 'commercial prerinse spray valve' by rule—

''(i) to include products—

''(I) that are extensively used in conjunction with commercial dishwashing and ware washing equipment;

''(II) the application of standards to which would result in significant energy savings; and

''(III) the application of standards to which would meet the criteria specified in section 325(o)(4); and

''(ii) to exclude products—

''(I) that are used for special food service applications;

''(II) that are unlikely to be widely used in conjunction with commercial dishwashing and ware washing equipment; and

''(III) the application of standards to which would not result in significant energy savings.

''(34) The term 'dehumidifier' means a self-contained, electrically operated, and mechanically encased assembly consisting of—

''(A) a refrigerated surface (evaporator) that condenses moisture from the atmosphere;

''(B) a refrigerating system, including an electric motor;

''(C) an air-circulating fan; and

''(D) means for collecting or disposing of the condensate.

''(35)(A) The term 'distribution transformer' means a transformer that—

''(i) has an input voltage of 34.5 kilovolts or less;

''(ii) has an output voltage of 600 volts or less; and

''(iii) is rated for operation at a frequency of 60 Hertz.

''(B) The term 'distribution transformer' does not include—

''(i) a transformer with multiple voltage taps, the highest of which equals at least 20 percent more than the lowest;

''(ii) a transformer that is designed to be used in a special purpose application and is unlikely to be used in general purpose applications, such as a drive transformer, rectifier transformer, auto-transformer, Uninterruptible Power System transformer, impedance transformer, regulating transformer, sealed and nonventilating transformer, machine tool transformer, welding transformer, grounding transformer, or testing transformer; or

''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because—

''(I) the transformer is designed for a special application;

''(II) the transformer is unlikely to be used in general purpose applications; and

''(III) the application of standards to the transformer would not result in significant energy savings.

''(36) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into DC current or lower-voltage AC current to operate a consumer product.

''(37) The term 'illuminated exit sign' means a sign that—

''(A) is designed to be permanently fixed in place to identify an exit; and

''(B) consists of an electrically powered integral light source that—

''(i) illuminates the legend 'EXIT' and any directional indicators; and

''(ii) provides contrast between the legend, any directional indicators, and the background.

''(38) The term 'low-voltage dry-type distribution transformer' means a distribution transformer that—

''(A) has an input voltage of 600 volts or less;

''(B) is air-cooled; and

''(C) does not use oil as a coolant.

''(39) The term 'pedestrian module' means a light signal used to convey movement information to pedestrians.

''(40) The term 'refrigerated bottled or canned beverage vending machine' means a commercial refrigerator that cools bottled or canned beverages and dispenses the bottled or canned beverages on payment.

''(41) The term 'standby mode' means the lowest power consumption mode, as established on an individual product basis by the Secretary, that—

''(A) cannot be switched off or influenced by the user; and

''(B) may persist for an indefinite time when an appliance is—

''(i) connected to the main electricity supply; and

''(ii) used in accordance with the instructions of the manufacturer.

''(42) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward to give indirect illumination.

''(43) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication that—

''(A) consists of a light source, a lens, and all other parts necessary for operation; and

''(B) communicates movement messages to drivers through red, amber, and green colors.

''(44) The term 'transformer' means a device consisting of 2 or more coils of insulated wire that transfers alternating current by electromagnetic induction from 1 coil to another to change the original voltage or current value.

''(45)(A) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space.

''(B) The term 'unit heater' does not include a warm air furnace.

''(46)(A) The term 'high intensity discharge lamp' means an electric-discharge lamp in which—

''(i) the light-producing arc is stabilized by bulb wall temperature; and

''(ii) the arc tube has a bulb wall loading in excess of 3 Watts/cm^2.

''(B) The term 'high intensity discharge lamp' includes mercury vapor, metal halide, and high-pressure sodium lamps described in subparagraph (A).

''(47)(A) The term 'mercury vapor lamp' means a high intensity discharge lamp in which the major portion of the light is produced by radiation from mercury operating at a partial pressure in excess of 100,000 Pa (approximately 1 atm).

''(B) The term 'mercury vapor lamp' includes clear, phosphor-coated, and self-ballasted lamps described in subparagraph (A).

''(48) The term 'mercury vapor lamp ballast' means a device that is designed and marketed to start and operate mercury vapor lamps by providing the necessary voltage and current.''.

(b) TEST PROCEDURES.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended—

(1) in subsection (b), by adding at the end the following:

''(9) Test procedures for illuminated exit signs shall be based on the test method used under version 2.0 of the Energy Star program of the Environmental Protection Agency for illuminated exit signs.

''(10)(A) Test procedures for distribution transformers and low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998).

''(B) The Secretary may review and revise the test procedures established under subparagraph (A).

''(C) For purposes of section 346(a), the test procedures established under subparagraph (A) shall be considered to be the testing requirements prescribed by the Secretary under section 346(a)(1) for distribution transformers for which the Secretary makes a determination that energy conservation standards would—

''(i) be technologically feasible and economically justified; and

''(ii) result in significant energy savings.

''(11) Test procedures for traffic signal modules and pedestrian modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.

''(12)(A) Test procedures for medium base compact fluorescent lamps shall be based on the test methods for compact fluorescent lamps used under the August 9, 2001, version of the Energy Star program of the Environmental Protection Agency and the Department of Energy.

''(B) Except as provided in subparagraph (C), medium base compact fluorescent lamps shall meet all test requirements for regulated parameters of section 325(cc).

''(C) Notwithstanding subparagraph (B), if manufacturers document engineering predictions and analysis that support expected attainment of lumen maintenance at 40 percent rated life and lamp lifetime, medium base compact fluorescent lamps may be marketed before completion of the testing of lamp life and lumen maintenance at 40 percent of rated life.

''(13) Test procedures for dehumidifiers shall be based on the test criteria used under the Energy Star Program Requirements for Dehumidifiers developed by the Environmental Protection Agency, as in effect on the date of enactment of this paragraph unless revised by the Secretary pursuant to this section.

''(14) The test procedure for measuring flow rate for commercial prerinse spray valves shall be based on American Society for Testing and Materials Standard F2324, entitled 'Standard Test Method for Pre-Rinse Spray Valves.'

''(15) The test procedure for refrigerated bottled or canned beverage vending machines shall be based on American National Standards Institute/American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 32.1–2004, entitled 'Methods of Testing for Rating Vending Machines for Bottled, Canned or Other Sealed Beverages'.''; and

(2) by adding at the end the following:

''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—(1) Not later than 2 years after the date of enactment of this subsection, the Secretary shall prescribe testing requirements for—

''(A) suspended ceiling fans; and

''(B) refrigerated bottled or canned beverage vending machines.

''(2) To the maximum extent practicable, the testing requirements prescribed under paragraph (1) shall be based on existing test procedures used in industry.''.

(c) STANDARD SETTING AUTHORITY.—Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended—

(1) in subsection (f)(3), by adding at the end the following:

''(D) Notwithstanding any other provision of this Act, if the requirements of subsection (o) are met, the Secretary may consider and prescribe energy conservation standards or energy use standards for electricity used for purposes of circulating air through duct work.'';

(2) in subsection (g)—

(A) in paragraph (6)(B), by inserting ''and labeled'' after ''designed''; and

(B) by adding at the end the following:

''(8)(A) Each fluorescent lamp ballast (other than replacement ballasts or ballasts described in subparagraph (C))—

''(i)(I) manufactured on or after July 1, 2009;

''(II) sold by the manufacturer on or after October 1, 2009; or

''(III) incorporated into a luminaire by a luminaire manufacturer on or after July 1, 2010; and

''(ii) designed—

''(I) to operate at nominal input voltages of 120 or 277 volts;

''(II) to operate with an input current frequency of 60 Hertz; and

''(III) for use in connection with F34T12 lamps, F96T12/ES lamps, or F96T12HO/ES lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor of not less than the following:

Application for operation of	Ballast input voltage	Total nominal lamp watts	Ballast efficacy factor
One F34T12 lamp ...	120/277	34	2.61
Two F34T12 lamps	120/277	68	1.35
Two F96 T12/ES lamps	120/277	120	0.77
Two F96 T12HO/ES lamps	120/277	190	0.42

''(B) The standards described in subparagraph (A) shall apply to all ballasts covered by subparagraph (A)(ii) that are manufactured on or after July 1, 2010, or sold by the manufacturer on or after October 1, 2010.

''(C) The standards described in subparagraphs (A) and (B) do not apply to—

''(i) a ballast that is designed for dimming to 50 percent or less of the maximum output of the ballast;

''(ii) a ballast that is designed for use with 2 F96T12HO lamps at ambient temperatures of 20°F or less and for use in an outdoor sign; or

''(iii) a ballast that has a power factor of less than 0.90 and is designed and labeled for use only in residential applications.'';

(3) in subsection (o), by adding at the end the following:

''(5) The Secretary may set more than 1 energy conservation standard for products that serve more than 1 major function by setting 1 energy conservation standard for each major function.'';

(4) in the first sentence of subsection (p), by striking ''Any'' and inserting the following: ''Except as provided in subsection (u), any''; and

(5) by adding at the end the following:

''(u) SPECIAL RULEMAKING PROCEDURES.—(1) Notwithstanding any other provision of law, the Secretary may publish a notice of direct final rulemaking based on an energy conservation standard recommended by an interested person, if—

''(A) in response to an advance notice of proposed rulemaking under paragraph (p), the interested person (including a representative of a manufacturer of a covered product, a conservation advocate, or consumer) submits a joint comment recommending an energy conservation standard; and

''(B) the Secretary determines that the energy conservation standard complies with the substantive provisions of this Act that

apply to the type (or class) of covered products to which the rule may apply.

''(2) The Secretary shall publish a notice of direct final rulemaking under paragraph (1) with a notice of proposed rulemaking incorporating by reference the regulatory language of the direct final rule that provides for an effective date not earlier than 90 days after the date of publication.

''(3) The Secretary may withdraw a direct final rule published under paragraph (2) before the effective date of the rule if an interested person files a significant adverse comment in response to the related notice of proposed rulemaking.

''(v) BATTERY CHARGER AND EXTERNAL POWER SUPPLY ELECTRIC ENERGY CONSUMPTION.—(1)(A) Not later than 18 months after the date of enactment of this subsection, the Secretary shall, after providing notice and an opportunity for comment, prescribe, by rule, definitions and test procedures for the power use of battery chargers and external power supplies.

''(B) In establishing the test procedures under subparagraph (A), the Secretary shall—

''(i) consider existing definitions and test procedures used for measuring energy consumption in standby mode and other modes; and

''(ii) assess the current and projected future market for battery chargers and external power supplies.

''(C) The assessment under subparagraph (B)(ii) shall include—

''(i) estimates of the significance of potential energy savings from technical improvements to battery chargers and external power supplies; and

''(ii) suggested product classes for energy conservation standards.

''(D) Not later than 18 months after the date of enactment of this subsection, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for energy use for battery chargers and external power supplies.

''(E)(i) Not later than 3 years after the date of enactment of this subsection, the Secretary shall issue a final rule that determines whether energy conservation standards shall be issued for battery chargers and external power supplies or classes of battery chargers and external power supplies.

''(ii) For each product class, any energy conservation standards issued under clause (i) shall be set at the lowest level of energy use that—

''(I) meets the criteria and procedures of subsections (o), (p), (q), (r), (s), and (t); and

''(II) would result in significant overall annual energy savings, considering standby mode and other operating modes.

''(2) In determining under section 323 whether test procedures and energy conservation standards under this section should be revised with respect to covered products that are major sources of standby mode energy consumption, the Secretary shall consider whether to incorporate standby mode into the test procedures and energy conservation standards, taking into account standby mode power consumption compared to overall product energy consumption.

''(3) The Secretary shall not propose an energy conservation standard under this section, unless the Secretary has issued applicable test procedures for each product under section 323.

''(4) Any energy conservation standard issued under this subsection shall be applicable to products manufactured or imported beginning on the date that is 3 years after the date of issuance.

''(5) The Secretary and the Administrator shall collaborate and develop programs (including programs under section 324A and other voluntary industry agreements or codes of conduct) that are designed to reduce standby mode energy use.

''(w) SUSPENDED CEILING FANS AND REFRIGERATED BEVERAGE VENDING MACHINES.—(1) Not later than 4 years after the date of enactment of this subsection, the Secretary shall prescribe, by rule, energy conservation standards for—

''(A) suspended ceiling fans; and

''(B) refrigerated bottled or canned beverage vending machines.

''(2) In establishing energy conservation standards under this subsection, the Secretary shall use the criteria and procedures prescribed under subsections (o) and (p).

''(3) Any energy conservation standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing the energy conservation standard.

''(x) ILLUMINATED EXIT SIGNS.—An illuminated exit sign manufactured on or after January 1, 2006, shall meet the version 2.0 Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency.

''(y) TORCHIERES.—A torchiere manufactured on or after January 1, 2006—

''(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.

''(z) LOW VOLTAGE DRY-TYPE DISTRIBUTION TRANSFORMERS.—The efficiency of a low voltage dry-type distribution transformer manufactured on or after January 1, 2006, shall be the Class I Efficiency Levels for distribution transformers specified in table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–2002).

''(aa) TRAFFIC SIGNAL MODULES AND PEDESTRIAN MODULES.—Any traffic signal module or pedestrian module manufactured on or after January 1, 2006, shall—

''(1) meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this subsection; and

''(2) be installed with compatible, electrically connected signal control interface devices and conflict monitoring systems.

''(bb) UNIT HEATERS.—A unit heater manufactured on or after the date that is 3 years after the date of enactment of this subsection shall—

''(1) be equipped with an intermittent ignition device; and

''(2) have power venting or an automatic flue damper.

''(cc) MEDIUM BASE COMPACT FLUORESCENT LAMPS.—(1) A bare lamp and covered lamp (no reflector) medium base compact fluorescent lamp manufactured on or after January 1, 2006, shall meet the following requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps, Energy Star Eligibility Criteria, Energy-Efficiency Specification issued by the Environmental Protection Agency and Department of Energy:

''(A) Minimum initial efficacy.

''(B) Lumen maintenance at 1000 hours.

''(C) Lumen maintenance at 40 percent of rated life.

''(D) Rapid cycle stress test.

''(E) Lamp life.

''(2) The Secretary may, by rule, establish requirements for color quality (CRI), power factor, operating frequency, and maximum allowable start time based on the requirements prescribed by the August 9, 2001, version of the Energy Star Program Requirements for Compact Fluorescent Lamps.

''(3) The Secretary may, by rule—

''(A) revise the requirements established under paragraph (2); or

''(B) establish other requirements, after considering energy savings, cost effectiveness, and consumer satisfaction.

''(dd) DEHUMIDIFIERS.—(1) Dehumidifiers manufactured on or after October 1, 2007, shall have an Energy Factor that meets or exceeds the following values:

''Product Capacity (pints/day):	**Minimum Energy Factor (Liters/kWh)**
25.00 or less	1.00
25.01 – 35.00	1.20
35.01 – 54.00	1.30
54.01 – 74.99	1.50
75.00 or more	2.25.

''(2)(A) Not later than October 1, 2009, the Secretary shall publish a final rule in accordance with subsections (o) and (p), to determine whether the energy conservation standards established under paragraph (1) should be amended.

''(B) The final rule published under subparagraph (A) shall—

''(i) contain any amendment by the Secretary; and

''(ii) provide that the amendment applies to products manufactured on or after October 1, 2012.

''(C) If the Secretary does not publish an amendment that takes effect by October 1, 2012, dehumidifiers manufactured on or after October 1, 2012, shall have an Energy Factor that meets or exceeds the following values:

''Product Capacity (pints/day):	**Minimum Energy Factor (Liters/kWh)**
25.00 or less	1.20
25.01 – 35.00	1.30
35.01 – 45.00	1.40
45.01 – 54.00	1.50
54.01 – 74.99	1.60
75.00 or more	2.5.

''(ee) COMMERCIAL PRERINSE SPRAY VALVES.—Commercial prerinse spray valves manufactured on or after January 1, 2006, shall have a flow rate of not more than 1.6 gallons per minute.

''(ff) MERCURY VAPOR LAMP BALLASTS.—Mercury vapor lamp ballasts shall not be manufactured or imported after January 1, 2008.

''(gg) APPLICATION DATE.—Section 327 applies—

''(1) to products for which energy conservation standards are to be established under subsection (l), (u), (v), or (w) beginning on the date on which a final rule is issued by the Secretary, except that any State or local standard prescribed or enacted for the product before the date on which the final rule is issued shall not be preempted until the energy conservation standard established under subsection (l),(u), (v), or (w) for the product takes effect; and

''(2) to products for which energy conservation standards are established under subsections (x) through (ff) on the date of enactment of those subsections, except that any State or local standard prescribed or enacted before the date of enactment of those subsections shall not be preempted until the energy conservation standards established under subsections (x) through (ff) take effect.''.

(d) GENERAL RULE OF PREEMPTION.—Section 327(c) of the Energy Policy and Conservation Act (42 U.S.C. 6297(c)) is amended—

(1) in paragraph (5), by striking ''or'' at the end;

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

(3) by adding at the end the following:

''(7)(A) is a regulation concerning standards for commercial prerinse spray valves adopted by the California Energy Commission before January 1, 2005; or

''(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations with changes in American Society for Testing and Materials Standard F2324;

''(8)(A) is a regulation concerning standards for pedestrian modules adopted by the California Energy Commission before January 1, 2005; or

''(B) is an amendment to a regulation described in subparagraph (A) that was developed to align California regulations to changes in the Institute for Transportation Engineers standards, entitled 'Performance Specification: Pedestrian Traffic Control Signal Indications'.''.

SEC. 136. ENERGY CONSERVATION STANDARDS FOR COMMERCIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (D) through (G) as subparagraphs (H) through (K), respectively; and

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

''(D) Very large commercial package air conditioning and heating equipment.

''(E) Commercial refrigerators, freezers, and refrigerator-freezers.

''(F) Automatic commercial ice makers.

''(G) Commercial clothes washers.'';

(2) in paragraph (2)(B), by striking ''small and large commercial package air conditioning and heating equipment'' and inserting ''commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers'';

(3) by striking paragraphs (8) and (9) and inserting the following:

''(8)(A) The term 'commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application.

''(B) The term 'small commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated below 135,000 Btu per hour (cooling capacity).

''(C) The term 'large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

''(i) at or above 135,000 Btu per hour; and

''(ii) below 240,000 Btu per hour (cooling capacity).

''(D) The term 'very large commercial package air conditioning and heating equipment' means commercial package air conditioning and heating equipment that is rated—

''(i) at or above 240,000 Btu per hour; and

''(ii) below 760,000 Btu per hour (cooling capacity).

''(9)(A) The term 'commercial refrigerator, freezer, and refrigerator-freezer' means refrigeration equipment that—

''(i) is not a consumer product (as defined in section 321);

''(ii) is not designed and marketed exclusively for medical, scientific, or research purposes;

''(iii) operates at a chilled, frozen, combination chilled and frozen, or variable temperature;

''(iv) displays or stores merchandise and other perishable materials horizontally, semivertically, or vertically;

''(v) has transparent or solid doors, sliding or hinged doors, a combination of hinged, sliding, transparent, or solid doors, or no doors;

''(vi) is designed for pull-down temperature applications or holding temperature applications; and

''(vii) is connected to a self-contained condensing unit or to a remote condensing unit.

''(B) The term 'holding temperature application' means a use of commercial refrigeration equipment other than a pull-down temperature application, except a blast chiller or freezer.

''(C) The term 'integrated average temperature' means the average temperature of all test package measurements taken during the test.

''(D) The term 'pull-down temperature application' means a commercial refrigerator with doors that, when fully loaded with 12 ounce beverage cans at 90 degrees F, can cool those beverages to an average stable temperature of 38 degrees F in 12 hours or less.

''(E) The term 'remote condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is remotely located from the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.

''(F) The term 'self-contained condensing unit' means a factory-made assembly of refrigerating components designed to compress and liquefy a specific refrigerant that is an integral part of the refrigerated equipment and consists of 1 or more refrigerant compressors, refrigerant condensers, condenser fans and motors, and factory supplied accessories.''; and

(4) by adding at the end the following:

''(19) The term 'automatic commercial ice maker' means a factory-made assembly (not necessarily shipped in 1 package) that—

''(A) consists of a condensing unit and ice-making section operating as an integrated unit, with means for making and harvesting ice; and

''(B) may include means for storing ice, dispensing ice, or storing and dispensing ice.

''(20) The term 'commercial clothes washer' means a soft-mount front-loading or soft-mount top-loading clothes washer that—

''(A) has a clothes container compartment that—

''(i) for horizontal-axis clothes washers, is not more than 3.5 cubic feet ; and

''(ii) for vertical-axis clothes washers, is not more than 4.0 cubic feet; and

''(B) is designed for use in—

''(i) applications in which the occupants of more than 1 household will be using the clothes washer, such as multi-family housing common areas and coin laundries; or

''(ii) other commercial applications.

''(21) The term 'harvest rate' means the amount of ice (at 32 degrees F) in pounds produced per 24 hours.''.

(b) STANDARDS FOR COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT.—Section 342(a) of the Energy Policy and Conservation Act (42 U.S.C. 6313(a)) is amended—

(1) in the subsection heading, by striking ''SMALL AND LARGE'' and inserting ''SMALL, LARGE, AND VERY LARGE'';

(2) in paragraph (1), by inserting ''but before January 1, 2010,'' after ''January 1, 1994,'';

(3) in paragraph (2), by inserting ''but before January 1, 2010,'' after ''January 1, 1995,''; and

(4) in paragraph (6)—

(A) in subparagraph (A)—

(i) by inserting ''(i)'' after ''(A)'';

(ii) by striking ''the date of enactment of the Energy Policy Act of 1992'' and inserting ''January 1, 2010'';

(iii) by inserting after ''large commercial package air conditioning and heating equipment,'' the following: ''and very large commercial package air conditioning and heating equipment, or if ASHRAE/IES Standard 90.1, as in effect on October 24, 1992, is amended with respect to any''; and

(iv) by adding at the end the following:

''(ii) If ASHRAE/IES Standard 90.1 is not amended with respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, and very large commercial package air conditioning and heating equipment during the 5-year period beginning on the effective date of a standard, the Secretary may initiate a rulemaking to determine whether a more stringent standard—

''(I) would result in significant additional conservation of energy; and

''(II) is technologically feasible and economically justified.''; and

(B) in subparagraph (C)(ii), by inserting ''and very large commercial package air conditioning and heating equipment'' after ''large commercial package air conditioning and heating equipment''; and

(5) by adding at the end the following:

''(7) Small commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

''(i) 11.2 for equipment with no heating or electric resistance heating; and

''(ii) 11.0 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be—

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.3 (at a high temperature rating of 47 degrees F db).

''(8) Large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

''(i) 11.0 for equipment with no heating or electric resistance heating; and

''(ii) 10.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be—

''(i) 10.6 for equipment with no heating or electric resistance heating; and

''(ii) 10.4 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).

''(9) Very large commercial package air conditioning and heating equipment manufactured on or after January 1, 2010, shall meet the following standards:

''(A) The minimum energy efficiency ratio of air-cooled central air conditioners at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

''(i) 10.0 for equipment with no heating or electric resistance heating; and

''(ii) 9.8 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(B) The minimum energy efficiency ratio of air-cooled central air conditioner heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be—

''(i) 9.5 for equipment with no heating or electric resistance heating; and

''(ii) 9.3 for equipment with all other heating system types that are integrated into the equipment (at a standard rating of 95 degrees F db).

''(C) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 240,000 Btu per hour (cooling capacity) and less than 760,000 Btu per hour (cooling capacity) shall be 3.2 (at a high temperature rating of 47 degrees F db).''.

(c) STANDARDS FOR COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) is amended by adding at the end the following:

''(c) COMMERCIAL REFRIGERATORS, FREEZERS, AND REFRIGERATOR-FREEZERS.—(1) In this subsection:

''(A) The term 'AV' means the adjusted volume (ft^3) (defined as 1.63 x frozen temperature compartment volume (ft^3) + chilled temperature compartment volume (ft^3)) with compartment volumes measured in accordance with the Association of Home Appliance Manufacturers Standard HRF1–1979.

''(B) The term 'V' means the chilled or frozen compartment volume (ft^3) (as defined in the Association of Home Appliance Manufacturers Standard HRF1–1979).

''(C) Other terms have such meanings as may be established by the Secretary, based on industry-accepted definitions and practice.

''(2) Each commercial refrigerator, freezer, and refrigerator-freezer with a self-contained condensing unit designed for holding temperature applications manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) that does not exceed the following:

''Refrigerators with solid doors.	0.10 V + 2.04
Refrigerators with transparent doors.	0.12 V + 3.34
Freezers with solid doors	0.40 V + 1.38
Freezers with transparent doors.	0.75 V + 4.10
Refrigerators/freezers with solid doors the greater of.	0.27 AV – 0.71 or 0.70.

''(3) Each commercial refrigerator with a self-contained condensing unit designed for pull-down temperature applications and transparent doors manufactured on or after January 1, 2010, shall have a daily energy consumption (in kilowatt hours per day) of not more than 0.126 V + 3.51.

''(4)(A) Not later than January 1, 2009, the Secretary shall issue, by rule, standard levels for ice-cream freezers, self-contained commercial refrigerators, freezers, and refrigerator-freezers without doors, and remote condensing commercial refrigerators, freezers, and refrigerator-freezers, with the standard levels effective for equipment manufactured on or after January 1, 2012.

''(B) The Secretary may issue, by rule, standard levels for other types of commercial refrigerators, freezers, and refrigerator-freezers not covered by paragraph (2)(A) with the standard levels effective for equipment manufactured 3 or more years after the date on which the final rule is published.

''(5)(A) Not later than January 1, 2013, the Secretary shall issue a final rule to determine whether the standards established under this subsection should be amended.

''(B) Not later than 3 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that the standards should not be amended, the Secretary shall issue a final rule to determine whether the standards established under this subsection or the amended standards, as applicable, should be amended.

''(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the final amended standard is published; or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.''.

(d) STANDARDS FOR AUTOMATIC COMMERCIAL ICE MAKERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (c)) is amended by adding at the end the following:

''(d) AUTOMATIC COMMERCIAL ICE MAKERS.—(1) Each automatic commercial ice maker that produces cube type ice with capacities between 50 and 2500 pounds per 24-hour period when tested according to the test standard established in section 343(a)(7) and is manufactured on or after January 1, 2010, shall meet the following standard levels:

Equipment Type	Type of Cooling	Harvest Rate (lbs ice/24 hours)	Maximum Energy Use (kWh/100 lbs Ice)	Maximum Condenser Water Use (gal/100 lbs Ice)
Ice Making Head	Water	<500	7.80–0.0055H	200–0.022H
		≥500 and <1436	5.58–0.0011H	200–0.022H
		≥1436	4.0	200–0.022H
Ice Making Head	Air	<450	10.26–0.0086H	Not Applicable
		≥450	6.89–0.0011H	Not Applicable
Remote Condensing (but not remote compressor)	Air	<0000	8.85–0.0038H	Not Applicable
		≥1000	5.10	Not Applicable
Remote Condensing and Remote Compressor	Air	<934	8.85–0.0038H	Not Applicable
		≥934	5.3	Not Applicable
Self Contained	Water	<200	11.40–0.019H	191–0.0315H
		≥200	7.60	191–0.0315H
Self Contained	Air	<175	18.0–0.0469H	Not Applicable
		≥175	9.80	Not Applicable

H = Harvest rate in pounds per 24 hours.
Water use is for the condenser only and does not include potable water used to make ice.

''(2)(A) The Secretary may issue, by rule, standard levels for types of automatic commercial ice makers that are not covered by paragraph (1).

''(B) The standards established under subparagraph (A) shall apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the rule is published under subparagraph (A); or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final rule is published.

''(3)(A) Not later than January 1, 2015, with respect to the standards established under paragraph (1), and, with respect to the standards established under paragraph (2), not later than 5 years after the date on which the standards take effect, the Secretary shall issue a final rule to determine whether amending the applicable standards is technologically feasible and economically justified.

''(B) Not later than 5 years after the effective date of any amended standards under subparagraph (A) or the publication of a final rule determining that amending the standards is not technologically feasible or economically justified, the Secretary shall issue a final rule to determine whether amending the standards established under paragraph (1) or the amended standards, as applicable, is technologically feasible or economically justified.

''(C) If the Secretary issues a final rule under subparagraph (A) or (B) establishing amended standards, the final rule shall provide that the amended standards apply to products manufactured on or after the date that is—

''(i) 3 years after the date on which the final amended standard is published; or

''(ii) if the Secretary determines, by rule, that 3 years is inadequate, not later than 5 years after the date on which the final amended standard is published.

''(4) A final rule issued under paragraph (2) or (3) shall establish standards at the maximum level that is technically feasible and economically justified, as provided in subsections (o) and (p) of section 325.''.

(e) STANDARDS FOR COMMERCIAL CLOTHES WASHERS.—Section 342 of the Energy Policy and Conservation Act (42 U.S.C. 6313) (as amended by subsection (d)) is amended by adding at the end the following:

''(e) COMMERCIAL CLOTHES WASHERS.—(1) Each commercial clothes washer manufactured on or after January 1, 2007, shall have—

''(A) a Modified Energy Factor of at least 1.26; and

''(B) a Water Factor of not more than 9.5.

''(2)(A)(i) Not later than January 1, 2010, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

''(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.

''(B)(i) Not later than January 1, 2015, the Secretary shall publish a final rule to determine whether the standards established under paragraph (1) should be amended.

''(ii) The rule published under clause (i) shall provide that any amended standard shall apply to products manufactured 3 years after the date on which the final amended standard is published.''.

(f) TEST PROCEDURES.—Section 343 of the Energy Policy and Conservation Act (42 U.S.C. 6314) is amended—

(1) in subsection (a)—

(A) in paragraph (4)—

(i) in subparagraph (A), by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,''; and

(ii) in subparagraph (B), by inserting ''very large commercial package air conditioning and heating equipment,'' after ''large commercial package air conditioning and heating equipment,''; and

(B) by adding at the end the following:

''(6)(A)(i) In the case of commercial refrigerators, freezers, and refrigerator-freezers, the test procedures shall be—

''(I) the test procedures determined by the Secretary to be generally accepted industry testing procedures; or

''(II) rating procedures developed or recognized by the ASHRAE or by the American National Standards Institute.

''(ii) In the case of self-contained refrigerators, freezers, and refrigerator-freezers to which standards are applicable under paragraphs (2) and (3) of section 342(c), the initial test procedures shall be the ASHRAE 117 test procedure that is in effect on January 1, 2005.

''(B)(i) In the case of commercial refrigerators, freezers, and refrigerators-freezers with doors covered by the standards adopted in February 2002, by the California Energy Commission, the rating temperatures shall be the integrated average temperature of 38 degrees F (± 2 degrees F) for refrigerator compartments and 0 degrees F (± 2 degrees F) for freezer compartments.

''(C) The Secretary shall issue a rule in accordance with paragraphs (2) and (3) to establish the appropriate rating temperatures for the other products for which standards will be established under subsection 342(c)(4).

''(D) In establishing the appropriate test temperatures under this subparagraph, the Secretary shall follow the procedures and meet the requirements under section 323(e).

''(E)(i) Not later than 180 days after the publication of the new ASHRAE 117 test procedure, if the ASHRAE 117 test procedure for commercial refrigerators, freezers, and refrigerator-freezers is amended, the Secretary shall, by rule, amend the test procedure for the product as necessary to ensure that the test procedure is consistent with the amended ASHRAE 117 test procedure, unless the Secretary makes a determination, by rule, and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

''(ii) If the Secretary determines that 180 days is an insufficient period during which to review and adopt the amended test procedure or rating procedure under clause (i), the Secretary shall publish a notice in the Federal Register stating the intent of the Secretary to wait not longer than 1 additional year before putting into effect an amended test procedure or rating procedure.

''(F)(i) If a test procedure other than the ASHRAE 117 test procedure is approved by the American National Standards Institute, the Secretary shall, by rule—

''(I) review the relative strengths and weaknesses of the new test procedure relative to the ASHRAE 117 test procedure; and

''(II) based on that review, adopt 1 new test procedure for use in the standards program.

''(ii) If a new test procedure is adopted under clause (i)—

''(I) section 323(e) shall apply; and

''(II) subparagraph (B) shall apply to the adopted test procedure.

''(7)(A) In the case of automatic commercial ice makers, the test procedures shall be the test procedures specified in Air-Conditioning and Refrigeration Institute Standard 810–2003, as in effect on January 1, 2005.

''(B)(i) If Air-Conditioning and Refrigeration Institute Standard 810–2003 is amended, the Secretary shall amend the test procedures established in subparagraph (A) as necessary to be consistent with the amended Air-Conditioning and Refrigeration Institute Standard, unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures under paragraphs (2) and (3).

''(ii) If the Secretary issues a rule under clause (i) containing a determination described in clause (ii), the rule may establish an amended test procedure for the product that meets the requirements of paragraphs (2) and (3).

''(C) The Secretary shall comply with section 323(e) in establishing any amended test procedure under this paragraph.

''(8) With respect to commercial clothes washers, the test procedures shall be the same as the test procedures established by the Secretary for residential clothes washers under section 325(g).''; and

(2) in subsection (d)(1), by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,''.

(g) LABELING.—Section 344(e) of the Energy Policy and Conservation Act (42 U.S.C. 6315(e)) is amended by inserting ''very large commercial package air conditioning and heating equipment, commercial refrigerators, freezers, and refrigerator-freezers, automatic commercial ice makers, commercial clothes washers,'' after ''large commercial package air conditioning and heating equipment,'' each place it appears.

(h) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—Section 345 of the Energy Policy and Conservation Act (42 U.S.C. 6316) is amended—

(1) in subsection (a)—

(A) in paragraph (7), by striking ''and'' at the end;

(B) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(9) in the case of commercial clothes washers, section 327(b)(1) shall be applied as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 2005.'';

(2) in the first sentence of subsection (b)(1), by striking ''part B'' and inserting ''part A''; and

(3) by adding at the end the following:

''(d)(1) Except as provided in paragraphs (2) and (3), section 327 shall apply with respect to very large commercial package air conditioning and heating equipment to the same extent and in the same manner as section 327 applies under part A on the date of enactment of this subsection.

''(2) Any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(a)(9) take effect on January 1, 2010.

''(e)(1)(A) Subsections (a), (b), and (d) of section 326, subsections (m) through (s) of section 325, and sections 328 through 336 shall apply with respect to commercial refrigerators, freezers, and refrigerator-freezers to the same extent and in the same manner as those provisions apply under part A.

''(B) In applying those provisions to commercial refrigerators, freezers, and refrigerator-freezers, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

''(2)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under paragraphs (2) and (3) of section 342(c) to the same extent and in the same manner as those provisions apply under part A on the date of enactment of this subsection, except that any State or local standard issued before the date of enactment of this subsection shall not be preempted until the standards established under paragraphs (2) and (3) of section 342(c) take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(3)(A) Section 327 shall apply to commercial refrigerators, freezers, and refrigerator-freezers for which standards are established under section 342(c)(4) to the same extent and in the same manner as the provisions apply under part A on the date of publication of the final rule by the Secretary, except that any State or local standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(4)(A) If the Secretary does not issue a final rule for a specific type of commercial refrigerator, freezer, or refrigerator-freezer within the time frame specified in section 342(c)(5), subsections (b) and (c) of section 327 shall not apply to that specific type of refrigerator, freezer, or refrigerator-freezer for the period beginning on the date that is 2 years after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of refrigerator, freezer, or refrigerator-freezer.

''(B) Any State or local standard issued before the date of publication of the final rule shall not be preempted until the final rule takes effect.

''(5)(A) In the case of any commercial refrigerator, freezer, or refrigerator-freezer to which standards are applicable under paragraphs (2) and (3) of section 342(c), the Secretary shall require manufacturers to certify, through an independent, nationally recognized testing or certification program, that the commercial refrigerator, freezer, or refrigerator-freezer meets the applicable standard.

''(B) The Secretary shall, to the maximum extent practicable, encourage the establishment of at least 2 independent testing and certification programs.

''(C) As part of certification, information on equipment energy use and interior volume shall be made available to the Secretary.

''(f)(1)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(1) to the same extent and in the same manner as the section applies under part A on the date of enactment of this subsection.

''(ii) Any State standard issued before the date of enactment of this subsection shall not be preempted until the standards established under section 342(d)(1) take effect.

''(B) In applying section 327 to the equipment under subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(2)(A)(i) Except as provided in clause (ii), section 327 shall apply to automatic commercial ice makers for which standards have been established under section 342(d)(2) to the same extent and in the same manner as the section applies under part A on the date of publication of the final rule by the Secretary.

''(ii) Any State standard issued before the date of publication of the final rule by the Secretary shall not be preempted until the standards established under section 342(d)(2) take effect.

''(B) In applying section 327 in accordance with subparagraph (A), paragraphs (1), (2), and (3) of subsection (a) shall apply.

''(3)(A) If the Secretary does not issue a final rule for a specific type of automatic commercial ice maker within the time frame specified in subsection 342(d), subsections (b) and (c) of section 327 shall no longer apply to the specific type of automatic commercial ice maker for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering the specific type of automatic commercial ice maker.

''(B) Any State standard issued before the publication of the final rule shall not be preempted until the standards established in the final rule take effect.

''(4)(A) The Secretary shall monitor whether manufacturers are reducing harvest rates below tested values for the purpose of bringing non-complying equipment into compliance.

''(B) If the Secretary finds that there has been a substantial amount of manipulation with respect to harvest rates under subparagraph (A), the Secretary shall take steps to minimize the manipulation, such as requiring harvest rates to be within 5 percent of tested values.

''(g)(1)(A) If the Secretary does not issue a final rule for commercial clothes washers within the timeframe specified in section 342(e)(2), subsections (b) and (c) of section 327 shall not apply to commercial clothes washers for the period beginning on the day after the scheduled date for a final rule and ending on the date on which the Secretary publishes a final rule covering commercial clothes washers.

''(B) Any State or local standard issued before the date on which the Secretary publishes a final rule shall not be preempted until the standards established under section 342(e)(2) take effect.

''(2) The Secretary shall undertake an educational program to inform owners of laundromats, multifamily housing, and other sites where commercial clothes washers are located about the new standard, including impacts on washer purchase costs and options for recovering those costs through coin collection.''.

SEC. 137. EXPEDITED RULEMAKING.

(a) ADMINISTRATIVE PROCEDURE.—The first sentence of section 325(p) of the Energy Policy and Conservation Act (42 U.S.C. 6295(p)) is amended by striking ''Any'' and inserting ''Except as provided in subsection (u), any''.

(b) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—The first sentence of section 336(b)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6306(b)(2)) is amended by striking ''such chapter.'' and inserting ''that chapter, except, notwithstanding section 706(2)(D) of title 5, United States Code, no direct final rule prescribed or withdrawn under section 325(u) may be held unlawful or set aside because of the failure of the Secretary to observe a procedure required by law other than the procedures required under section 325(u).''.

(c) CONFORMING AMENDMENT.—Section 345(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6316(b)(1)) is amended by inserting ''section 325(u),'' before ''section 326(a)''.

SEC. 138. ENERGY LABELING.

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Section 324(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F)(i) Not later than 90 days after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider—

''(I) the effectiveness of the consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency; and

''(II) changes to the labeling rules (including categorical labeling) that would improve the effectiveness of consumer product labels.

''(ii) Not later than 2 years after the date of enactment of this subparagraph, the Commission shall complete the rulemaking initiated under clause (i).''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is amended by adding at the end the following:

''(5)(A) For covered products described in subsections (u) through (ee) of section 325, after a test procedure has been prescribed under section 323, the Secretary or the Commission, as appropriate, may prescribe, by rule, under this section labeling requirements for the products.

''(B) In the case of products to which TP–1 standards under section 325(y) apply, labeling requirements shall be based on the 'Standard for the Labeling of Distribution Transformer Efficiency' prescribed by the National Electrical Manufacturers Association (NEMA TP–3) as in effect on the date of enactment of this paragraph.

''(C) In the case of dehumidifiers covered under section 325(dd), the Commission shall not require an 'Energy Guide' label.''.

SEC. 139. ENERGY EFFICIENT ELECTRIC AND NATURAL GAS UTILITIES STUDY.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the National Association of Regulatory Utility Commissioners and the National Association of State Energy Officials, shall conduct a study of State and regional policies that promote cost-effective programs to reduce energy consumption (including energy efficiency programs) that are carried out by—

(1) utilities that are subject to State regulation; and

(2) nonregulated utilities.

(b) CONSIDERATION.—In conducting the study under subsection (a), the Secretary shall take into consideration—

(1) performance standards for achieving energy use and demand reduction targets;

(2) funding sources, including rate surcharges;

(3) infrastructure planning approaches (including energy efficiency programs) and infrastructure improvements;

(4) the costs and benefits of consumer education programs conducted by State and local governments and local utilities to increase consumer awareness of energy efficiency technologies and measures; and

(5) methods of—

(A) removing disincentives for utilities to implement energy efficiency programs;

(B) encouraging utilities to undertake voluntary energy efficiency programs; and

(C) ensuring appropriate returns on energy efficiency programs.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that includes—

(1) the findings of the study; and

(2) any recommendations of the Secretary, including recommendations on model policies to promote energy efficiency programs.

SEC. 140. ENERGY EFFICIENCY PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a pilot program under which the Secretary provides financial assistance to at least 3, but not more than 7, States to carry out pilot projects in the States for—

(1) planning and adopting statewide programs that encourage, for each year in which the pilot project is carried out—

(A) energy efficiency; and

(B) reduction of consumption of electricity or natural gas in the State by at least 0.75 percent, as compared to a baseline determined by the Secretary for the period preceding the implementation of the program; or

(2) for any State that has adopted a statewide program as of the date of enactment of this Act, activities that reduce energy consumption in the State by expanding and improving the program.

(b) VERIFICATION.—A State that receives financial assistance under subsection (a)(1) shall submit to the Secretary independent verification of any energy savings achieved through the statewide program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2010, to remain available until expended.

SEC. 141. ENERGY EFFICIENCY RESOURCE PROGRAMS.

(a) ELECTRIC UTILITY PROGRAMS.—Section 111 of the Public Utilities Regulatory Policy Act of 1978 (16 U.S.C. 2621) is amended by adding at the end the following:

''(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

''(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual electricity consumption or peak demand of consumers served by an electric utility by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of the number of years during which the program is in effect.

''(2) PUBLIC HEARINGS; DETERMINATIONS.—

''(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each electric utility over which the State has

ratemaking authority) and each nonregulated electric utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

''(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

''(i) benefit end-use customers;

''(ii) be cost-effective based on total resource cost;

''(iii) serve the public welfare; and

''(iv) be feasible to implement.

''(3) IMPLEMENTATION.—

''(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

''(i) require each electric utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

''(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

''(B) NONREGULATED ELECTRIC UTILITIES.—If a nonregulated electric utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

''(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

''(A) continued;,

''(B) modified; or

''(C) terminated.

''(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any nonregulated electric utility operating in the State) that demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.''.

(b) GAS UTILITIES.—Section 303 of the Public Utilities Regulatory Policy Act of 1978 (15 U.S.C. 3203) is amended by adding at the end the following:

''(e) ENERGY EFFICIENCY RESOURCE PROGRAMS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEMAND BASELINE.—The term 'demand baseline' means the baseline determined by the Secretary for an appropriate period preceding the implementation of an energy efficiency resource program.

''(B) ENERGY EFFICIENCY RESOURCE PROGRAMS.—The term 'energy efficiency resource program' means an energy efficiency or other demand reduction program that is designed to reduce annual gas consumption or peak demand of consumers served by a gas utility by a percentage of the demand baseline of the utility that is equal to not less than 0.75 percent of the number of years during which the program is in effect.

''(2) PUBLIC HEARINGS; DETERMINATIONS.—

''(A) As soon as practicable after the date of enactment of this subsection, but not later than 3 years after that date, each State regulatory authority (with respect to each gas utility over which the State has ratemaking authority) and each nonregulated gas utility shall, after notice, conduct a public hearing on the benefits and feasibility of implementing an energy efficiency resource program.

''(B) A State regulatory authority or nonregulated utility shall implement an energy efficiency resource program if, on the basis of a hearing under subparagraph (A), the State regulatory authority or nonregulated utility determines that the program would—

''(i) benefit end-use customers;

''(ii) be cost-effective based on total resource cost;

''(iii) serve the public welfare; and

''(iv) be feasible to implement.

''(3) IMPLEMENTATION.—

''(A) STATE REGULATORY AUTHORITIES.—If a State regulatory authority makes a determination under paragraph (2)(B), the State regulatory authority shall—

''(i) require each gas utility over which the State has ratemaking authority to implement an energy efficiency resource program; and

''(ii) allow such a utility to recover any expenditures incurred by the utility in implementing the energy efficiency resource program.

''(B) NONREGULATED GAS UTILITIES.—If a nonregulated gas utility makes a determination under paragraph (2)(B), the utility shall implement an energy efficiency resource program.

''(4) UPDATING REGULATIONS.—A State regulatory authority or nonregulated utility may update periodically a determination under paragraph (2)(B) to determine whether an energy efficiency resource program should be—

''(A) continued;,

''(B) modified; or

''(C) terminated.

''(5) EXCEPTION.—Paragraph (2) shall not apply to a State regulatory authority (or any nonregulated gas utility operating in the State) that demonstrates to the Secretary that an energy efficiency resource program is in effect in the State.''.

Subtitle D—Measures to Conserve Petroleum

SEC. 151. REDUCTION OF DEPENDENCE ON IMPORTED PETROLEUM.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2006, and annually thereafter, the President shall submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, assessing the progress made by the United States toward the goal of reducing dependence on imported petroleum sources by 2015.

(2) CONTENTS.—The report under subsection (a) shall—

(A) include a description of the implementation, during the previous fiscal year, of provisions under this Act relating to domestic crude petroleum production;

(B) assess the effectiveness of those provisions in meeting the goal described in paragraph (1); and

(C) describe the progress in developing and implementing measures under subsection (b).

(b) MEASURES TO REDUCE IMPORT DEPENDENCE THROUGH INCREASED DOMESTIC PETROLEUM CONSERVATION.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President shall develop and implement measures to conserve petroleum in end-uses throughout the economy of the United States sufficient to reduce total demand for petroleum in the United States by 1,000,000 barrels per day from the amount projected for calendar year 2015 in the reference case contained in the report of the Energy Information Administration entitled ''Annual Energy Outlook 2005''.

(2) CONTENTS.—The measures under paragraph (1) shall be designed to ensure continued reliable and affordable energy for consumers.

(3) IMPLEMENTATION.—The measures under paragraph (1) shall be implemented under existing authorities of appropriate Federal executive agencies identified by the President.

Subtitle E—Energy Efficiency in Housing

SEC. 161. PUBLIC HOUSING CAPITAL FUND.

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g) is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (I), by striking ''; and'' and inserting a semicolon;

(B) in subparagraph (J), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

''(K) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate; and

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The treatment'' and inserting the following:

''(i) IN GENERAL.—The treatment''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for—

''(I) equipment conversions to less costly utility sources;

''(II) projects with resident-paid utilities; and

''(III) adjustments to frozen base year consumption, including systems repaired to meet applicable building and safety codes and adjustments for occupancy rates increased by rehabilitation.

''(iii) TERM OF CONTRACT.—The total term of a contract described in clause (i) shall not exceed 20 years to allow longer payback periods for retrofits, including—

''(I) windows;

''(II) heating system replacements;

''(III) wall insulation;

''(IV) site-based generation; and

''(V) advanced energy savings technologies, including renewable energy generation and other such retrofits.''.

SEC. 162. ENERGY EFFICIENT APPLIANCES.

In purchasing appliances, a public housing agency shall purchase energy-efficient appliances that are Energy Star products or FEMP designated products, as such terms are defined in section 552 of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) (as amended by section 104) unless the purchase of energy-efficient appliances is not cost-effective to the agency.

SEC. 163. ENERGY EFFICIENCY STANDARDS.

Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking '' 1 year after the date of enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2006'';

(ii) in subparagraph (A), by striking ''; and'' and inserting a semicolon;

(iii) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(C) rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), where such standards are determined to be cost effective by the Secretary of Housing and Urban Development.''; and

(B) in paragraph (2), in the first sentence, by inserting '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy

Conservation Code'' after ''Standard 90.1–1989'')'';

(2) in subsection (b)—

(A) by striking ''within 1 year after the date of enactment of the Energy Policy Act of 1992'' and inserting ''by September 30, 2006''; and

(B) by inserting '', and, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'' after ''Standard 90.1–1989''; and

(3) in subsection (c)—

(A) in the heading, by inserting ''AND THE INTERNATIONAL ENERGY CONSERVATION CODE'' after ''MODEL ENERGY CODE''; and

(B) by inserting '', or, with respect to rehabilitation and new construction of public and assisted housing funded by HOPE VI revitalization grants, established under section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v), the 2003 International Energy Conservation Code'' after ''Standard 90.1–1989''.

SEC. 164. ENERGY STRATEGY FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) DEVELOPMENT OF STRATEGY.—The Secretary of Housing and Urban Development shall develop and implement an integrated energy strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures and energy efficient design and construction of public and assisted housing.

(b) CONTENTS OF STRATEGY.—The energy strategy required under subsection (a) shall include the development of energy reduction goals and incentives for public housing agencies.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary of Housing and Urban Development shall submit to Congress a report describing—

(1) the energy strategy required under subsection (a);

(2) the actions taken by the Department of Housing and Urban Development to monitor the energy usage of public housing agencies; and

(3) the progress, if any, in implementing the energy strategy required under subsection (a).

TITLE II—RENEWABLE ENERGY

Subtitle A—General Provisions

SEC. 201. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.

(a) RESOURCE ASSESSMENTS.—Not later than 180 days after the date of enactment of this Act and each year thereafter, the Secretary shall—

(1) review the available assessments of renewable energy resources within the United States, including solar, wind, biomass, ocean (tidal, wave, current, and thermal), geothermal, and hydroelectric energy resources; and

(2) undertake new assessments as necessary, taking into account changes in market conditions, available technologies, and other relevant factors.

(b) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act and each year thereafter, the Secretary shall publish a report based on the most recent assessment under subsection (a).

(2) CONTENTS.—The report shall contain—

(A) a detailed inventory describing the available quantity and characteristics of the renewable energy resources; and

(B) such other information as the Secretary determines would be useful in developing the renewable energy resources, including—

(i) descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, and the location of energy and water resources;

(ii) available estimates of the costs needed to develop each resource;

(iii) an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets;

(iv) recommendations for removing or addressing those barriers; and

(v) recommendations for providing access to the electrical grid that do not unfairly disadvantage renewable or other energy producers.

(c) 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 2006 through 2010.

SEC. 202. RENEWABLE ENERGY PRODUCTION INCENTIVE.

(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended—

(1) by striking the last sentence;

(2) by designating the first, second, and third sentences as paragraphs (1), (2), and (3), respectively;

(3) in paragraph (3) (as so designated), by striking ''and which satisfies'' and all that follows through ''deems necessary''; and

(4) by adding at the end the following:

''(4)(A) Subject to subparagraph (B), if there are insufficient appropriations to make full payments for electric production from all qualified renewable energy facilities for a fiscal year, the Secretary shall assign—

''(i) 60 percent of appropriated funds for the fiscal year to facilities that use solar, wind, geothermal, or closed-loop (dedicated energy crops) biomass technologies to generate electricity; and

''(ii) 40 percent of appropriated funds for the fiscal year to other projects.

''(B) After submitting to Congress an explanation of the reasons for the alteration, the Secretary may alter the percentage requirements of subparagraph (A).''.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—

(1) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting ''a not-for-profit electric cooperative, a public utility described in section 115 of the Internal Revenue Code of 1986, a State, Commonwealth, territory, or possession of the United States, or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,''; and

(2) by inserting ''landfill gas,'' after ''wind, biomass,''.

(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''before October 1, 2016''.

(d) PAYMENT PERIOD.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended in the second sentence by inserting '', or in which the Secretary determines that all necessary Federal and State authorizations have been obtained to begin construction of the facility'' after ''eligible for such payments''.

(e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended in the first sentence by inserting ''landfill gas,'' after ''wind, biomass,''.

(f) TERMINATION OF AUTHORITY.—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, 2026''.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is amended by striking subsection (g) and inserting the following:

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2006 through 2026, to remain available until expended.''.

SEC. 203. FEDERAL PURCHASE REQUIREMENT.

(a) DEFINITIONS.—In this section:

(1) BIOMASS.—The term ''biomass'' means any solid, nonhazardous, cellulosic material that is derived from—

(A) any of the following forest-related resources: mill residue, precommercial thinning, slash, brush, or nonmerchantable material;

(B) a solid wood waste material—

(i) including a waste pallet, crate, dunnage, manufacturing and construction wood waste (other than pressure-treated, chemically-treated, or painted wood waste), and landscape or right-of-way tree trimming; but

(ii) not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled;

(C) agriculture waste, including an orchard tree crop, vineyard, grain, legume, sugar, and other crop byproduct or residue, and a livestock waste nutrient; or

(D) a plant that is grown exclusively as a fuel for the production of electricity.

(2) RENEWABLE ENERGY.—The term ''renewable energy'' means electric energy generated from solar, wind, biomass, landfill gas, geothermal, municipal solid waste, or new hydroelectric generation capacity achieved from increased efficiency or additions of new capacity at an existing hydroelectric project.

(b) REQUIREMENT.—The President, acting through the Secretary, shall seek to ensure that, to the extent economically feasible and technically practicable, of the total quantity of electric energy the Federal Government consumes during any fiscal year, the following amounts shall be renewable energy:

(1) Not less than 3 percent in each of fiscal years 2007 through 2009.

(2) Not less than 5 percent in each of fiscal years 2010 through 2012.

(3) Not less than 7.5 percent in fiscal year 2013 and each fiscal year thereafter.

(c) CALCULATION.—For purposes of determining compliance with the requirement of this section, the quantity of renewable energy shall be doubled if—

(1) the renewable energy is produced and used onsite at a Federal facility;

(2) the renewable energy is produced on Federal land and used at a Federal facility; or

(3) the renewable energy is produced on Indian land (as defined in section 2601 of the Energy Policy Act of 1992) and used at a Federal facility.

(d) REPORT.—Not later than April 15, 2007, and every 2 years thereafter, the Secretary shall provide to Congress a report on the progress of the Federal Government in meeting the goals established by this section.

SEC. 204. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.

(a) DEFINITIONS.—In this section:

(1) 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—

(A) dedicated energy crops and trees;

(B) wood and wood residues;

(C) plants;
(D) grasses;
(E) agricultural residues; and
(F) fibers.

(2) RENEWABLE FUEL.—

(A) IN GENERAL.—The term ''renewable fuel'' means motor vehicle fuel that—

(i)(I) is produced from grain, starch, oilseeds, sugar cane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

(II) 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.

(B) INCLUSIONS.—The term ''renewable fuel'' includes—

(i) cellulosic biomass ethanol;

(ii) waste derived ethanol;

(iii) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(iv) any blending components derived from renewable fuel, except that only the renewable fuel portion of the blending component shall be considered part of the applicable volume under the renewable fuel program established by this section.

(3) SMALL REFINERY.—The term ''small refinery'' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

(4) WASTE DERIVED ETHANOL.—The term ''waste derived ethanol'' means ethanol derived from—

(A) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

(B) municipal solid waste.

(b) RENEWABLE FUEL PROGRAM.—

(1) IN GENERAL.—

(A) REGULATIONS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations ensuring that motor vehicle fuel sold or dispensed to consumers in the contiguous United States, on an annual average basis, contains the applicable volume of renewable fuel specified in paragraph (2).

(B) COMPLIANCE.—Regardless of the date of issuance, the regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewable fuel can be used, or impose any per-gallon obligation for the use of renewable fuel.

(C) NO REGULATIONS.—If the Secretary does not issue the regulations, the applicable percentage referred to in paragraph (3), on a volume percentage of gasoline basis, shall be 3.2 in 2006.

(2) APPLICABLE VOLUME.—

(A) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of paragraph (1), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

Applicable volume of renewable fuel

Calendar year:	(In billions of gallons)
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0

(B) CALENDAR YEARS 2013 AND THEREAFTER.—

(i) IN GENERAL.—Subject to clause (ii), for the purpose of paragraph (1), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Secretary, in coordination with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

(ii) MINIMUM QUANTITY DERIVED FROM CELLULOSIC BIOMASS.—For calendar year 2013 and each calendar year thereafter—

(I) the applicable volume referred to in clause (i) shall contain a minimum of 250,000,000 gallons that are derived from cellulosic biomass; and

(II) the 2.5-to-1 ratio referred to in subsection (e) shall not apply.

(C) LIMITATION.—An increase in the applicable volume for a calendar year under subparagraph (B) shall be not less than the product obtained by multiplying—

(i) the number of gallons of gasoline that the Secretary estimates will be sold or introduced into commerce during the calendar year; and

(ii) the quotient obtained by dividing—

(I) 8,000,000,000; by

(II) the number of gallons of gasoline sold or introduced into commerce during calendar year 2012.

(c) NONCONTIGUOUS STATE OPT-IN.—

(1) IN GENERAL.—On the petition of a noncontiguous State, the Secretary may allow the renewable fuel program established under this subtitle to apply in the noncontiguous State at the same time or any time after the Secretary issues regulations under subsection (b).

(2) OTHER ACTIONS.—The Secretary may—

(A) issue or revise regulations under subsection (b);

(B) establish applicable percentages under subsection (d);

(C) provide for the generation of credits under subsection (f); and

(D) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State.

(d) APPLICABLE PERCENTAGES.—

(1) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2006 through 2011, the Administrator of the Energy Information Administration shall provide to the Secretary an estimate of the volumes of gasoline that will be sold or introduced into commerce in the United States during the following calendar year.

(2) DETERMINATION OF APPLICABLE PERCENTAGES.—

(A) IN GENERAL.—Not later than November 30 of each of calendar years 2006 through 2011, based on the estimate provided under paragraph (1), the Secretary shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements under subsection (b) are met.

(B) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under subparagraph (A) shall—

(i) be applicable to refiners, blenders, and importers, as appropriate;

(ii) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce; and

(iii) subject to paragraph (3)(A), consist of a single applicable percentage that applies to all categories of persons specified in clause (i).

(3) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Secretary shall make adjustments—

(A) to prevent the imposition of redundant obligations to any person specified in paragraph (2)(B)(i); and

(B) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under subsection (i).

(e) EQUIVALENCY.—For the purpose of subsection (b), 1 gallon of either cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

(f) CREDIT PROGRAM.—

(1) REGULATIONS.—The regulations issued to carry out this section shall provide for—

(A) the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under subsection (b);

(B) the generation of an appropriate amount of credits for biodiesel fuel; and

(C) if a small refinery notifies the Secretary that the small refinery waives the exemption provided by this section, the generation of credits by the small refinery beginning in the year following the notification.

(2) USE OF CREDITS.—A person that generates credits under paragraph (1) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with subsection (b).

(3) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to demonstrate compliance for the calendar year in which the credit was generated.

(4) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations issued to carry out this section shall include provisions permitting any person that is unable to generate or purchase sufficient credits to meet the requirement under subsection (b) to carry forward a renewable fuels deficit if, for the calendar year following the year in which the renewable fuels deficit is created—

(A) the person achieves compliance with the renewable fuels requirement under subsection (b); and

(B) generates or purchases additional renewable fuels credits to offset the renewable fuels deficit of the preceding year.

(g) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

(1) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

(2) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in paragraph (3), the Secretary shall issue regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirements under subsection (b) is used during each of the periods specified in paragraph (4) of each subsequent calendar year.

(3) DETERMINATIONS.—The determinations referred to in paragraph (2) are that—

(A) less than 35 percent of the quantity of renewable fuels necessary to meet the requirements under subsection (b) has been used during 1 of the periods specified in paragraph (4) of the calendar year;

(B) a pattern of excessive seasonal variation described in subparagraph (A) will continue in subsequent calendar years; and

(C) issuing regulations or other requirements to impose a 35 percent or more seasonal use of renewable fuels will not—

(i) prevent or interfere with the attainment of national ambient air quality standards; or

(ii) significantly increase the price of motor fuels to the consumer.

(4) PERIODS.—The 2 periods referred to in this paragraph are—

(A) April through September; and

(B) January through March and October through December.

(5) STATE EXEMPTION FROM SEASONALITY REQUIREMENTS.—Notwithstanding any other provision of law, a seasonality requirement relating to the use of renewable fuel established in accordance with this subsection shall not apply to any State that receives a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)).

(h) WAIVERS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, may waive the requirements under subsection (b), in whole or in part, on a petition by 1 or more States by reducing the national quantity of renewable fuel required under this section—

(A) based on a determination by the Secretary, 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

(B) based on a determination by the Secretary, after public notice and opportunity for comment, that there is an inadequate domestic supply to meet the requirement.

(2) PETITIONS FOR WAIVERS.—Not later than 90 days after the date on which a petition is received by the Secretary under paragraph (1), the Secretary, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall approve or disapprove the petition.

(3) TERMINATION OF WAIVERS.—A waiver granted under paragraph (1) shall terminate on the date that is 1 year after the date on which the waiver was granted, but may be renewed by the Secretary, after consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency.

(i) SMALL REFINERIES.—

(1) IN GENERAL.—Subsection (b) shall not apply to small refineries until the first calendar year beginning more than 5 years after the first year set forth in the table in subsection (b)(2)(A).

(2) STUDY.—Not later than December 31, 2008, the Secretary shall complete a study to determine whether the requirements under subsection (b) would impose a disproportionate economic hardship on small refineries.

(3) SMALL REFINERIES AND ECONOMIC HARDSHIP.—For any small refinery that the Secretary determines would experience a disproportionate economic hardship, the Secretary shall extend the small refinery exemption for the small refinery for not less than 2 additional years.

(4) ECONOMIC HARDSHIP.—

(A) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Secretary for an extension of the exemption from the requirements under subsection (b) for the reason of disproportionate economic hardship.

(B) EVALUATION.—In evaluating a hardship petition, the Secretary, in consultation with the Administrator and Secretary of Agriculture, shall consider the findings of the study in addition to other economic factors.

(C) DEADLINE FOR ACTION ON PETITIONS.—The Secretary shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

(5) CREDIT PROGRAM.—Subsection (f)(1)(C) shall apply to each small refinery that waives an exemption under this paragraph.

(6) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to subsection (b) if the small refinery notifies the Secretary that the small refinery waives the exemption under paragraph (3).

(j) CELLULOSIC BIOMASS AND CANE SUGAR LOAN GUARANTEE PROGRAM.—

(1) IN GENERAL.—Subject to the availability of appropriations, funds shall be made available, and remain available until expended, to pay the cost (as defined in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees issued under section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919) to carry out commercial demonstration projects for cellulosic biomass and sucrose-derived ethanol.

(2) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary shall issue loan guarantees under this section to carry out projects to commercially demonstrate the feasibility and viability of converting cellulosic biomass derived from agricultural residue such as corn stover or straw or cane sugar and related products into ethanol.

(B) DESIGN CAPACITY.—Each project shall have a design capacity to produce at least 15,000,000 gallons of cellulose ethanol each year.

(3) APPLICANT ASSURANCES.—An applicant for a loan guarantee under this section shall provide assurances, satisfactory to the Secretary, that—

(A) the project design has been validated through the operation of a continuous process facility with a cumulative output of at least 50,000 gallons of ethanol;

(B) the project has been subject to a full technical review;

(C) the project is covered by adequate project performance guarantees;

(D) the project, with the loan guarantee, is economically viable; and

(E) there is a reasonable assurance of repayment of the guaranteed loan.

(4) LIMITATIONS.—

(A) MAXIMUM GUARANTEE.—Except as provided in subparagraph (B), notwithstanding section 19(c)(2)(A) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee under this section may be issued for up to 80 percent of the estimated cost of a project, but may not exceed $250,000,000 for a project.

(B) ADDITIONAL GUARANTEES.—

(i) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover up to 80 percent of the excess of actual project cost over estimated project cost but not to exceed 15 percent of the amount of the original guarantee.

(ii) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan made under subparagraph (A).

(5) EQUITY CONTRIBUTIONS.—To be eligible for a loan guarantee under this section, an applicant for the loan guarantee shall have binding commitments from equity investors to provide an initial equity contribution of at least 20 percent of the total project cost.

(6) EFFECT OF OTHER LAWS.—The following provisions are inapplicable to a loan guarantee made under this section:

(A) Subsections (m) and (p) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919).

(B) The first, third, and fourth sentences of section 19(g)(4) of that Act.

(7) APPLICATION.—An application for a loan guarantee under this section shall be approved or disapproved by the Secretary not later than 90 days after the application is received by the Secretary.

SEC. 205. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

(a) IN GENERAL.—Title III of the Energy Policy Act of 1992 is amended by striking section 306 (42 U.S.C. 13215) and inserting the following:

''SEC. 306. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.

''(a) ETHANOL-BLENDED GASOLINE.—The head of each Federal agency shall ensure that, in areas in which ethanol-blended gasoline is reasonably available at a generally competitive price, the Federal agency purchases ethanol-blended gasoline containing at least 10 percent ethanol rather than non-ethanol-blended gasoline, for use in vehicles used by the agency that use gasoline.

''(b) BIODIESEL.—

''(1) DEFINITION OF BIODIESEL.—In this subsection, the term 'biodiesel' has the meaning given the term in section 312(f).

''(2) REQUIREMENT.—The head of each Federal agency shall ensure that the Federal agency purchases, for use in fueling fleet vehicles that use diesel fuel used by the Federal agency at the location at which fleet vehicles of the Federal agency are centrally fueled, in areas in which the biodiesel-blended diesel fuel described in subparagraphs (A) and (B) is available at a generally competitive price—

''(A) as of the date that is 5 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 2 percent biodiesel, rather than nonbiodiesel-blended diesel fuel; and

''(B) as of the date that is 10 years after the date of enactment of this paragraph, biodiesel-blended diesel fuel that contains at least 20 percent biodiesel, rather than nonbiodiesel-blended diesel fuel.

''(3) REQUIREMENT OF FEDERAL LAW.—The provisions of this subsection shall not be considered a requirement of Federal law for the purposes of section 312.

''(c) EXEMPTION.—This section does not apply to fuel used in vehicles excluded from the definition of 'fleet' by subparagraphs (A) through (H) of section 301(9).''.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 306 and inserting the following:

''Sec. 306. Federal agency ethanol-blended gasoline and biodiesel purchasing requirement.''.

SEC. 206. 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)(1) In order to improve the ability to evaluate the effectiveness of the renewable fuels mandate of the United States, the Administrator shall conduct and publish the results of a survey of renewable fuels demand in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) In conducting the survey, the Administrator shall collect information both on a national and regional basis, including—

''(A) information on—

''(i) the quantity of renewable fuels produced;

''(ii) the quantity of renewable fuels blended;

''(iii) the quantity of renewable fuels imported; and

''(iv) the quantity of renewable fuels demanded; and

''(B) market price data.''.

SEC. 207. SUGAR CANE ETHANOL PROGRAM.

(a) DEFINITION OF PROGRAM.—In this section, the term ''program'' means the Sugar Cane Ethanol Program established by subsection (b).

(b) ESTABLISHMENT.—There is established within the Department a program to be known as the ''Sugar Cane Ethanol Program''.

(c) PROJECT.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (d), in carrying out the program, the Secretary shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii in a way similar to the existing program for the processing of corn for ethanol to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $36,000,000, to remain available until expended.

SEC. 208. MODIFICATION OF COMMODITY CREDIT CORPORATION BIOENERGY PROGRAM.

Section 9010(a)(3)(A) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8108(a)(3)(A)) is amended by inserting ''potatoes, sugarcane, sugar beets, products of sugarcane or sugar beets,'' after ''sesame seed,''.

SEC. 209. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Secretary shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note), establish a program, to be known as the ''Advanced Biofuel Technologies Program'', to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Secretary shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Secretary shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 1002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $110,000,000 for each of fiscal years 2006 through 2010.

SEC. 210. ASSISTANCE FOR RURAL COMMUNITIES WITH HIGH ENERGY COSTS.

Beginning on the date of enactment of this Act and notwithstanding any other provision of law, the Secretary and the Administrator of the Rural Utilities Service shall use the authorities provided under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) and section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) (including deferral, extension, refinancing, restructuring, and reduction of loans made under those Acts) to aid electric borrowers that serve rural communities in Alaska with extremely high energy costs to—

(1) reduce rates for customers;

(2) maintain reliable service;

(3) preserve the economic feasibility of the electric systems; and

(4) avoid default.

Subtitle B—Insular Energy

SEC. 221. DEFINITIONS.

In this subtitle:

(1) DISTRIBUTED GENERATION.—The term ''distributed generation'' means energy supplied in a rural or off-grid area.

(2) INSULAR AREA.—The term ''insular area'' means—

(A) Guam;

(B) American Samoa;

(C) the Commonwealth of the Northern Mariana Islands;

(D) the Federated States of Micronesia;

(E) the Republic of the Marshall Islands;

(F) the Republic of Palau;

(G) the United States Virgin Islands; and

(H) the Commonwealth of Puerto Rico.

SEC. 222. ASSESSMENT.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary (in consultation with the Secretary of Interior) shall—

(1) conduct an assessment of the energy needs of insular areas; and

(2) submit a report describing the results of the assessment to—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Energy and Commerce of the House of Representatives; and

(C) the Committee on Resources of the House of Representatives.

(b) STRATEGIES AND PROJECTS.—In conducting the assessment, for each of the insular areas, the Secretary shall identify and evaluate the strategies or projects with the greatest potential for reducing the dependence of the insular area on imported fossil fuels as used for the generation of electricity, including strategies and projects for—

(1) improved supply-side efficiency of centralized electrical generation, transmission, and distribution systems;

(2) improved demand-side management through—

(A) the application of established standards for energy efficiency for appliances;

(B) the conduct of energy audits for business and industrial customers; and

(C) the use of energy savings performance contracts;

(3) increased use of renewable energy, including—

(A) solar thermal energy for electric generation;

(B) solar thermal energy for water heating in large buildings, such as hotels, hospitals, government buildings, and residences;

(C) photovoltaic energy;

(D) wind energy;

(E) hydroelectric energy;

(F) wave energy;

(G) energy from ocean thermal resources, including ocean thermal-cooling for community air conditioning;

(H) water vapor condensation for the production of potable water;

(I) fossil fuel and renewable hybrid electrical generation systems; and

(J) other strategies or projects that the Secretary may identify as having significant potential; and

(4) fuel substitution and minimization with indigenous biofuels, such as coconut oil.

(c) DISTRIBUTED GENERATION.—In conducting the assessment, for each insular area with a significant need for distributed generation, the Secretary shall identify and evaluate the most promising strategies and projects described in paragraphs (3) and (4) of subsection (b) for meeting that need.

(d) FACTORS.—In assessing the potential of any strategy or project under this section, the Secretary shall consider—

(1) the estimated cost of the power or energy to be produced, including—

(A) any additional costs associated with the distribution of the generation; and

(B) the long-term availability of the generation source;

(2) the capacity of the local electrical utility to manage, operate, and maintain any project that may be undertaken; and

(3) other factors the Secretary considers to be appropriate.

SEC. 223. PROJECT FEASIBILITY STUDIES.

(a) IN GENERAL.—On a request described in subsection (b), the Secretary shall conduct a feasibility study of a project to implement a strategy or project identified under section 222 as having the potential to—

(1) significantly reduce the dependence of an insular area on imported oil; or

(2) provide needed distributed generation to an insular area.

(b) REQUEST.—The Secretary shall conduct a feasibility study under subsection (a) on—

(1) the request of an electric utility located in an insular area that commits to fund at least 10 percent of the cost of the study; and

(2) if the electric utility is located in the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau, written support for that request by the President or the Ambassador of the affected freely associated state.

(c) CONSULTATION.—The Secretary shall consult with regional utility organizations in—

(1) conducting feasibility studies under subsection (a); and

(2) determining the feasibility of potential projects.

(d) FEASIBILITY.—For the purpose of a feasibility study under subsection (a), a project shall be determined to be feasible if the project would significantly reduce the dependence of an insular area on imported fossil fuels, or provide needed distributed generation to an insular area, at a reasonable cost.

SEC. 224. IMPLEMENTATION.

(a) IN GENERAL.—On a determination by the Secretary (in consultation with the Secretary of the Interior) that a project is feasible under section 223 and a commitment by an electric utility to operate and maintain the project, the Secretary may provide such technical and financial assistance as the Secretary determines is appropriate for the implementation of the project.

(b) REGIONAL UTILITY ORGANIZATIONS.—In providing assistance under subsection (a), the Secretary shall consider providing the assistance through regional utility organizations.

SEC. 225. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary—

(1) $500,000 for the completion of the assessment under section 222;

(2) $500,000 for each fiscal year for project feasibility studies under section 223; and

(3) $5,000,000 for each fiscal year for project implementation under section 224.

(b) LIMITATION OF FUNDS RECEIVED BY INSULAR AREAS.—No insular area may receive, during any 3-year period, more than 20 percent of the total funds made available during that 3-year period under paragraphs (2) and (3) of subsection (a) unless the Secretary determines that providing funding in excess of that percentage best advances existing opportunities to meet the objectives of this subtitle.

Subtitle C—Biomass Energy

SEC. 231. DEFINITIONS.

In this subtitle:

(1) BIOMASS.—The term ''biomass'' means nonmerchantable material from, or precommercial thinnings of, trees and woody plants produced from treatments—

(A) to reduce hazardous fuels;

(B) to reduce or contain disease or insect infestations; or

(C) to restore forest health.

(2) ELIGIBLE COMMUNITY.—The term ''eligible community'' means an Indian Reservation, or a county, town, township, municipality, or other similar unit of local government with a population of not more than 50,000 individuals that the Secretary determines is located in an area near Federal or Indian land, that is—

(A) at significant risk of catastrophic wildfire, disease, or insect infestation; or

(B) diseased or infested by insects.

(3) ELIGIBLE OPERATION.—The term ''eligible operation'' means a facility that—

(A) is located within the boundaries of an eligible community; and

(B) uses biomass from Federal or Indian land as a raw material to produce electric energy, sensible heat, or transportation fuels.

(4) GREEN TON.—The term ''green ton'' means 2,000 pounds of biomass that has not been mechanically or artificially dried.

(5) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(6) PERSON.—The term ''person'' includes—

(A) an individual;

(B) an eligible community;

(C) an Indian tribe;

(D) a small business or a corporation that is incorporated in the United States; and

(E) a nonprofit organization.

(7) SECRETARY.—The term ''Secretary'' means—

(A) the Secretary of Agriculture, with respect to land within the National Forest System; or

(B) the Secretary of the Interior, with respect to Federal land under the jurisdiction of the Secretary of the Interior and Indian land.

SEC. 232. BIOMASS COMMERCIAL UTILIZATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to any person that owns or operates an eligible operation to offset the costs incurred to purchase biomass for use by the eligible operation.

(b) PRIORITY.—In making grants under subsection (a), the Secretary shall give priority to eligible operations that use biomass from the highest risk areas, as determined by the Secretary.

(c) GRANT AMOUNT.—A grant provided under this section may not exceed $20 per green ton of biomass delivered.

(d) MONITORING OF GRANT RECIPIENT ACTIVITIES.—

(1) IN GENERAL.—As a condition of a grant under this section, the grant recipient shall keep such records as the Secretary may require to fully and correctly disclose the use of the grant funds and all transactions involved in the purchase of biomass.

(2) ACCESS.—On notice by the Secretary, the grant recipient shall provide the Secretary reasonable access to examine the inventory and records of the eligible operation.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for each of fiscal years 2006 through 2010—

(A) $12,500,000 to the Secretary of Agriculture; and

(B) $12,500,000 to the Secretary of the Interior.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

SEC. 233. IMPROVED BIOMASS UTILIZATION PROGRAM.

(a) IN GENERAL.—The Secretary may provide grants to persons in eligible communities to offset the costs of developing or researching proposals to improve the use of biomass or add value to biomass utilization.

(b) SELECTION.—Grant recipients shall be selected based on the potential of a proposal to—

(1) develop affordable thermal or electric energy resources for the benefit of an eligible community;

(2) provide opportunities for the creation or expansion of small business concerns within an eligible community;

(3) create new job opportunities within an eligible community;

(4) improve efficiency or develop cleaner technologies for biomass utilization; and

(5) reduce the hazardous fuel from the highest risk areas.

(c) LIMITATION.—No grant provided under this section shall exceed $500,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section for each of fiscal years 2006 through 2010—

(A) $12,500,000 to the Secretary of Agriculture; and

(B) $12,500,000 to the Secretary of the Interior.

(2) AVAILABILITY.—Amounts made available under paragraph (1) shall remain available until expended.

SEC. 234. REPORT.

Not later than 3 years after the date of enactment of this Act, the Secretary of Agriculture and the Secretary of the Interior shall jointly submit to Congress a report that describes the interim results of the programs carried out under sections 232 and 233.

Subtitle D—Geothermal Energy

SEC. 241. COMPETITIVE LEASE SALE REQUIREMENTS.

Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) is amended to read as follows:

''SEC. 4. LEASING PROCEDURES.

''(a) NOMINATIONS.—The Secretary shall accept nominations of land to be leased at any time from qualified companies and individuals under this Act.

''(b) COMPETITIVE LEASE SALE REQUIRED.—

''(1) IN GENERAL.—Except as otherwise specifically provided by this Act, all land to be leased that is not subject to leasing under subsection (c) shall be leased as provided in this subsection to the highest responsible qualified bidder, as determined by the Secretary.

''(2) COMPETITIVE LEASE SALES.—The Secretary shall hold a competitive lease sale at least once every 2 years for land in a State that has nominations pending under subsection (a) if the land is otherwise available for leasing.

''(c) NONCOMPETITIVE LEASING.—The Secretary shall make available for a period of 2 years for noncompetitive leasing any tract for which a competitive lease sale is held, but for which the Secretary does not receive any bids in a competitive lease sale.

''(d) PENDING LEASE APPLICATIONS.—

''(1) IN GENERAL.—It shall be a priority for the Secretary, and for the Secretary of Agriculture with respect to National Forest Systems land, to ensure timely completion of administrative actions necessary to process applications for geothermal leasing pending on May 19, 2005.

''(2) ADMINISTRATION.—An application described in paragraph (1) and any lease issued pursuant to the application—

''(A) except as provided in subparagraph (B), shall be subject to this section as in effect on the day before the date of enactment of this paragraph; or

''(B) at the election of the applicant, shall be subject to this section as in effect on the effective date of this paragraph.''.

SEC. 242. DIRECT USE.

(a) FEES FOR DIRECT USE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended—

(1) in subsection (c), by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by redesignating subsections (a) through (d) as paragraphs (1) through (4), respectively;

(3) by inserting ''(a) IN GENERAL.—'' after ''SEC. 5.''; and

(4) by adding at the end the following:

''(d) DIRECT USE.—

''(1) IN GENERAL.—Notwithstanding subsection (a)(1), the Secretary shall establish a schedule of fees, in lieu of royalties for geothermal resources, that a lessee or its affiliate—

''(A) uses for a purpose other than the commercial generation of electricity; and

''(B) does not sell.

''(2) SCHEDULE OF FEES.—The schedule of fees—

''(A) may be based on the quantity or thermal content, or both, of geothermal resources used or any other basis that the Secretary finds appropriate under the circumstances; and

''(B) shall ensure a fair return to the United States for use of the resource.

''(3) STATE OR LOCAL GOVERNMENTS.—If a State or local government is the lessee and uses geothermal resources without sale and for purposes other than commercial generation of electricity, the Secretary shall charge only a nominal fee for use of the resource.''.

(b) LEASING FOR DIRECT USE.—Section 4 of the Geothermal Steam Act of 1970 (30 U.S.C. 1003) (as amended by section 241) is amended adding at the end the following:

''(e) LEASING FOR DIRECT USE OF GEOTHERMAL RESOURCES.—Notwithstanding subsection (b), the Secretary may identify areas in which the land to be leased under this Act exclusively for direct use of geothermal resources without sale for purposes other than commercial generation of electricity may be leased to any qualified applicant that first applies for such a lease under regulations issued by the Secretary, if the Secretary—

''(1) publishes a notice of the land proposed for leasing not later than 120 days before the date of the issuance of the lease;

''(2) does not receive during the 120-day period beginning on the date of the publication any nomination to include the land concerned in the next competitive lease sale; and

''(3) determines there is no competitive interest in the land to be leased.

''(f) AREA SUBJECT TO LEASE FOR DIRECT USE.—

''(1) IN GENERAL.—Subject to paragraph (2), a geothermal lease for the direct use of geothermal resources shall cover not more than the quantity of acreage determined by the Secretary to be reasonably necessary for the proposed use.

''(2) LIMITATIONS.—The quantity of acreage covered by the lease shall not exceed the limitations established under section 7.''.

SEC. 243. ROYALTIES.

(a) CALCULATION OF ROYALTIES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall issue a final regulation that provides a simplified methodology for calculating the royalty under subsection (a)(1) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)).

(2) CONSIDERATIONS.—In issuing the final regulation under paragraph (1), the Secretary shall—

(A) consider the use of a method based on gross proceeds from the sale of electricity; and

(B) ensure that the final regulation issued under paragraph (1) results in the same level of royalty revenues over a 10-year period as the regulation in effect on the day before the date of enactment of this Act.

(b) ROYALTY UNDER EXISTING LEASES.—

(1) IN GENERAL.—Any lessee under a lease issued under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) before the date of enactment of this Act may, within the time period specified in paragraph (2), submit to the Secretary of the Interior a request to modify the terms of the lease relating to payment of royalties to comply with—

(A) in the case of a lease that meets the requirements of subsection (b) of section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)), the schedule of fees established under that section; and

(B) in the case of any other lease, the methodology established under subsection (a).

(2) TIMING.—A request for a modification under paragraph (1) shall be submitted to the Secretary by the date that is not later than—

(A) in the case of a lease for direct use, 18 months after the effective date of the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(B) in the case of any other lease, 18 months after the effective date of the final regulation issued under subsection (a).

(3) APPLICATION OF MODIFICATION.—If the lessee requests modification of a lease under paragraph (1)—

(A) the Secretary shall modify the lease to comply with—

(i) in the case of a lease for direct use, the schedule of fees established by the Secretary under section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004); or

(ii) in the case of any other lease, the methodology established under subsection (a); and

(B) the modification shall apply to any use of geothermal steam and any associated geothermal resources to which subsection (a) applies that occurs after the date of the modification.

(4) CONSULTATION.—The Secretary shall consult with the State and local governments affected by any proposed changes in lease royalty terms under this subsection.

SEC. 244. GEOTHERMAL LEASING AND PERMITTING ON FEDERAL LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary of the Interior and the Secretary of Agriculture shall enter into, and submit to Congress, a memorandum of understanding in accordance with this section regarding leasing and permitting for geothermal development of public land and National Forest System land under the respective jurisdictions of the Secretaries.

(b) LEASE AND PERMIT APPLICATIONS.—The memorandum of understanding shall—

(1) identify areas with geothermal potential on land included in the National Forest System and, if necessary, require review of management plans to consider leasing under the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) as a land use; and

(2) establish an administrative procedure for processing geothermal lease applications, including lines of authority, steps in application processing, and time limits for application processing.

(c) DATA RETRIEVAL SYSTEM.—The memorandum of understanding shall establish a joint data retrieval system that—

(1) is capable of tracking lease and permit applications; and

(2) provides to the applicant information as to the status of an application within the Departments of the Interior and Agriculture, including an estimate of the time required for administrative action.

SEC. 245. ASSESSMENT OF GEOTHERMAL ENERGY POTENTIAL.

Not later than 3 years after the date of enactment of this Act and thereafter as the availability of data and developments in technology warrants, the Secretary of the Interior, acting through the Director of the United States Geological Survey and in cooperation with the States, shall—

(1) update the Assessment of Geothermal Resources made during 1978; and

(2) submit to Congress the updated assessment.

SEC. 246. COOPERATIVE OR UNIT PLANS.

Section 18 of the Geothermal Steam Act of 1970 (30 U.S.C. 1017) is amended to read as follows:

''SEC. 18. UNIT AND COMMUNITIZATION AGREEMENTS.

''(a) ADOPTION OF UNITS BY LESSEES.—

''(1) IN GENERAL.—For the purpose of more properly conserving the natural resources of any geothermal reservoir, field, or like area, or any part thereof (whether or not any part of the geothermal reservoir, field, or like area, is subject to any cooperative plan of development or operation (referred to in this section as a 'unit agreement')), lessees thereof and their representatives may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for the reservoir, field, or like area, or any part thereof, including direct use resources, if determined and certified by the Secretary to be necessary or advisable in the public interest.

''(2) MAJORITY INTEREST OF SINGLE LEASES.—A majority interest of owners of any single lease shall have the authority to commit the lease to a unit agreement.

''(3) INITIATIVE OF SECRETARY.—The Secretary may also initiate the formation of a unit agreement, or require an existing Federal lease to commit to a unit agreement, if in the public interest.

''(4) MODIFICATION OF LEASE REQUIREMENTS BY SECRETARY.—

''(A) IN GENERAL.—The Secretary may, in the discretion of the Secretary and with the consent of the holders of leases involved, establish, alter, change, or revoke rates of operations (including drilling, operations, production, and other requirements) of the leases and make conditions with respect to the leases, with the consent of the lessees, in connection with the creation and operation of any such unit agreement as the Secretary may consider necessary or advisable to secure the protection of the public interest.

''(B) UNLIKE TERMS OR RATES.—Leases with unlike lease terms or royalty rates shall not be required to be modified to be in the same unit.

''(b) REQUIREMENT OF PLANS UNDER NEW LEASES.—The Secretary may—

''(1) provide that geothermal leases issued under this Act shall contain a provision requiring the lessee to operate under a unit agreement; and

''(2) prescribe the unit agreement under which the lessee shall operate, which shall adequately protect the rights of all parties in interest, including the United States.

''(c) MODIFICATION OF RATE OF PROSPECTING, DEVELOPMENT, AND PRODUCTION.—The Secretary may require that any unit agreement authorized by this section that applies to land owned by the United States contain a provision under which authority is vested in the Secretary, or any person, committee, or State or Federal officer or agency as may be designated in the unit agreement to alter or modify, from time to time, the rate of prospecting and development and the quantity and rate of production under the unit agreement.

''(d) EXCLUSION FROM DETERMINATION OF HOLDING OR CONTROL.—Any land that is subject to a unit agreement approved or prescribed by the Secretary under this section shall not be considered in determining holdings or control under section 7.

''(e) POOLING OF CERTAIN LAND.—If separate tracts of land cannot be independently developed and operated to use geothermal steam and associated geothermal resources pursuant to any section of this Act—

''(1) the land, or a portion of the land, may be pooled with other land, whether or not owned by the United States, for purposes of development and operation under a communitization agreement providing for an apportionment of production or royalties among the separate tracts of land comprising the production unit, if the pooling is determined by the Secretary to be in the public interest; and

''(2) operation or production pursuant to the communitization agreement shall be treated as operation or production with respect to each tract of land that is subject to the communitization agreement.

''(f) UNIT AGREEMENT REVIEW.—

''(1) IN GENERAL.—Not later than 5 years after the date of approval of any unit agreement and at least every 5 years thereafter, the Secretary shall—

''(A) review each unit agreement; and

''(B) after notice and opportunity for comment, eliminate from inclusion in the unit agreement any land that the Secretary determines is not reasonably necessary for unit operations under the unit agreement.

''(2) BASIS FOR ELIMINATION.—The elimination shall—

''(A) be based on scientific evidence; and

''(B) occur only if the elimination is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource.

''(3) EXTENSION.—Any land eliminated under this subsection shall be eligible for an extension under section 6(g) if the land meets the requirements for the extension.

''(g) DRILLING OR DEVELOPMENT CONTRACTS.—

''(1) IN GENERAL.—The Secretary may, on such conditions as the Secretary may prescribe, approve drilling or development contracts made by 1 or more lessees of geothermal leases, with 1 or more persons, associations, or corporations if, in the discretion of the Secretary, the conservation of natural resources or the public convenience or necessity may require or the interests of the United States may be best served by the approval.

''(2) HOLDINGS OR CONTROL.—Each lease operated under an approved drilling or development contract, and interest under the contract, shall be excepted in determining holdings or control under section 7.

''(h) COORDINATION WITH STATE GOVERNMENTS.—The Secretary shall coordinate unitization and pooling activities with appropriate State agencies.''.

SEC. 247. ROYALTY ON BYPRODUCTS.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended in subsection (a) by striking paragraph (2) and inserting the following:

''(2) a royalty on any byproduct that is a mineral specified in the first section of the Mineral Leasing Act (30 U.S.C. 181), and that is derived from production under the lease, at the rate of the royalty that applies under that Act to production of the mineral under a lease under that Act;''.

SEC. 248. LEASE DURATION AND WORK COMMITMENT REQUIREMENTS.

Section 6(i) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(i)) is amended by striking paragraph (2) and inserting the following:

''(2) The Secretary shall, by regulation, establish payments under this subsection at levels that ensure the diligent development of the lease.''.

SEC. 249. ANNUAL RENTAL.

(a) ANNUAL RENTAL RATE.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended in subsection (a) by striking paragraph (3) and inserting the following:

''(3) payment in advance of an annual rental of not less than—

''(A) for each of the first through tenth years of the lease—

''(i) in the case of a lease awarded in a noncompetitive lease sale, $1 per acre or fraction thereof; or

''(ii) in the case of a lease awarded in a competitive lease sale, $2 per acre or fraction thereof for the first year and $3 per acre or fraction thereof for each of the second through 10th years; and

''(B) for each year after the 10th year of the lease, $5 per acre or fraction thereof;''.

(b) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 242(a)) is amended by adding at the end the following:

''(c) TERMINATION OF LEASE FOR FAILURE TO PAY RENTAL.—

''(1) IN GENERAL.—The Secretary shall terminate any lease with respect to which rental is not paid in accordance with this Act and the terms of the lease under which the rental is required, on the expiration of the 45-day period beginning on the date of the failure to pay the rental.

''(2) NOTIFICATION.—The Secretary shall promptly notify a lessee that has not paid rental required under the lease that the lease will be terminated at the end of the period referred to in paragraph (1).

''(3) REINSTATEMENT.—A lease that would otherwise terminate under paragraph (1) shall not terminate under that paragraph if the lessee pays to the Secretary, before the end of the period referred to in paragraph (1), the amount of rental due plus a late fee equal to 10 percent of the amount.''.

SEC. 250. ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.

Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) (as amended by section 249(b)) is amended by adding at the end the following:

''(d) ADVANCED ROYALTIES REQUIRED FOR CESSATION OF PRODUCTION.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), if, at any time after commercial production under a lease is achieved, production ceases for any reason, the lease shall remain in full force and effect for a period of not more than an aggregate number of 10 years beginning on the date production ceases, if, during the period in which production is ceased, the lessee pays royalties in advance at the monthly average rate at which the royalty was paid during the period of production.

''(2) REDUCTION.—The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advanced royalties paid under the lease to the extent that the advance royalties have not been used to reduce production royalties for a prior year.

''(3) EXCEPTIONS.—Paragraph (1) shall not apply if the cessation in production is required or otherwise caused by—

''(A) the Secretary;

''(B) the Secretary of the Air Force;

''(C) the Secretary of the Army;

''(D) the Secretary of the Navy;

''(E) a State or a political subdivision of a State; or

''(F) a force majeure.''.

SEC. 251. LEASING AND PERMITTING ON FEDERAL LAND WITHDRAWN FOR MILITARY PURPOSES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior and the Secretary of Defense, in consultation with the Secretary of the Air Force, the Secretary of the Army, the Secretary of the Navy, interested States, political subdivisions of States, and representatives of the geothermal industry, and other interested persons, shall submit to the appropriate committees of Congress a joint report on leasing and permitting activities for geothermal energy on Federal land withdrawn for military purposes.

(b) REQUIREMENTS.—The report required under subsection (a) shall include—

(1) a description of the military geothermal program, including a description of—

(A) any differences between the military geothermal program and the nonmilitary geothermal program, including required security procedures and operational considerations; and

(B) the reasons the differences described in subparagraph (A) are significant;

(2) with respect to the military geothermal program, a description of—

(A) revenues or energy provided to the Department of Defense and facilities of the Department Defense; and

(B) royalty structures, as applicable;

(3) any revenue sharing with States and political subdivisions of States and other benefits from—

(A) the implementation of the Geothermal Steam Act of 1970 (30 U.S.C 1001 et seq.) and other applicable Federal law by the Secretary of the Interior; and

(B) the administration of geothermal leasing under section 2689 of title 10, United States Code, by the Secretary of Defense;

(4) if appropriate—

(A) a description of the current methods and procedures used to ensure interagency coordination, as needed, in developing renewable energy sources on Federal land withdrawn for military purposes; and

(B) an identification of any new procedures that would improve interagency coordination to ensure efficient processing and administration of leases or contracts for geothermal energy on Federal land withdrawn for military purposes, consistent with the defense purposes of the withdrawals; and

(5) recommendations for any legislative or administrative actions that would increase geothermal production, including—

(A) a common royalty structure;

(B) leasing procedures; and

(C) other changes that—

(i) increase production;

(ii) offset military operation costs; or

(iii) enhance the ability of Federal agencies to develop geothermal resources.

(c) EFFECT.—Nothing in this section affects the legal status of geothermal leasing and development conducted by the Department of the Interior and the Department of Defense.

SEC. 252. TECHNICAL AMENDMENTS.

(a) The Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.) is amended by striking ''geothermal steam and associated geothermal resources'' each place it appears and inserting ''geothermal resources''.

(b) The first section of the Geothermal Steam Act of 1970 (30 U.S.C. 1001 note) is amended by striking ''That this'' and inserting the following:

''SECTION 1. SHORT TITLE.

''This''.

(c) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended—

(1) by striking ''SEC. 2. As'' and inserting the following:

''SEC. 2. DEFINITIONS.

''As''; and

(2) by striking subsection (e) and inserting the following:

''(e) 'direct use' means use of geothermal resources for commercial, residential, agricultural, public facilities, or other energy needs other than the commercial production of electricity; and''.

(d) Section 3 of the Geothermal Steam Act of 1970 (30 U.S.C. 1002) is amended by striking ''SEC. 3. Subject'' and inserting the following:

''SEC. 3 . LANDS SUBJECT TO GEOTHERMAL LEASING.

''Subject''.

(e) Section 5 of the Geothermal Steam Act of 1970 (30 U.S.C. 1004) is amended by striking ''SEC. 5. Geothermal'' and inserting the following:

''SEC. 5. RENTS AND ROYALTIES.

''Geothermal''.

(f) Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by striking ''SEC. 6. (a) The'' and inserting the following:

''SEC. 6. DURATION OF LEASES.

''(a) The''.

(g) Section 7 of the Geothermal Steam Act of 1970 (30 U.S.C. 1006) is amended by striking ''SEC. 7. A geothermal'' and inserting the following:

''SEC. 7. ACREAGE OF GEOTHERMAL LEASE.

''A geothermal''.

(h) Section 8 of the Geothermal Steam Act of 1970 (30 U.S.C. 1007) is amended by striking ''SEC. 8. (a) The'' and inserting the following:

''SEC. 8. READJUSTMENT OF LEASE TERMS AND CONDITIONS.

''(a) The''.

(i) Section 9 of the Geothermal Steam Act of 1970 (30 U.S.C. 1008) is amended by striking ''SEC. 9. If'' and inserting the following:

''SEC. 9. BYPRODUCTS.

''If''.

(j) Section 10 of the Geothermal Steam Act of 1970 (30 U.S.C. 1009) is amended by striking ''SEC. 10. The'' and inserting the following:

''SEC. 10. RELINQUISHMENT OF GEOTHERMAL RIGHTS.

''The''.

(k) Section 11 of the Geothermal Steam Act of 1970 (30 U.S.C. 1010) is amended by striking ''SEC. 11. The'' and inserting the following:

''SEC. 11. SUSPENSION OF OPERATIONS AND PRODUCTION.

''The''.

(l) Section 12 of the Geothermal Steam Act of 1970 (30 U.S.C. 1011) is amended by striking ''SEC. 12. Leases'' and inserting the following:

''SEC. 12. TERMINATION OF LEASES.

''Leases''.

(m) Section 13 of the Geothermal Steam Act of 1970 (30 U.S.C. 1012) is amended by striking ''SEC. 13. The'' and inserting the following:

''SEC. 13. WAIVER, SUSPENSION, OR REDUCTION OF RENTAL OR ROYALTY.

''The''.

(n) Section 14 of the Geothermal Steam Act of 1970 (30 U.S.C. 1013) is amended by striking ''SEC. 14. Subject'' and inserting the following:

''SEC. 14. SURFACE LAND USE.

''Subject''.

(o) Section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1014) is amended by striking ''SEC. 15. (a) Geothermal'' and inserting the following:

''SEC. 15. LANDS SUBJECT TO GEOTHERMAL LEASING.

''(a) Geothermal''.

(p) Section 16 of the Geothermal Steam Act of 1970 (30 U.S.C. 1015) is amended by striking ''SEC. 16. Leases'' and inserting the following:

''SEC. 16. REQUIREMENT FOR LESSEES.

''Leases''.

(q) Section 17 of the Geothermal Steam Act of 1970 (30 U.S.C. 1016) is amended by striking ''SEC. 17. Administration'' and inserting the following:

''SEC. 17. ADMINISTRATION.

''Administration''.

(r) Section 19 of the Geothermal Steam Act of 1970 (30 U.S.C. 1018) is amended by striking ''SEC. 19. Upon'' and inserting the following:

''SEC. 19. DATA FROM FEDERAL AGENCIES.

''Upon''.

(s) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended by striking ''SEC. 20. Subject'' and inserting the following:

''SEC. 20. DISPOSITION OF AMOUNTS RECEIVED FROM SALES, BONUSES, ROYALTIES, AND RENTALS.

''Subject''.

(t) Section 21 of the Geothermal Steam Act of 1970 (30 U.S.C. 1020) is amended by striking ''SEC. 21.'' and all that follows through ''(b) Geothermal'' and inserting the following:

''SEC. 21. PUBLICATION IN FEDERAL REGISTER; RESERVATION OF MINERAL RIGHTS.

''Geothermal''.

(u) Section 22 of the Geothermal Steam Act of 1970 (30 U.S.C. 1021) is amended by striking ''SEC. 22. Nothing'' and inserting the following:

''SEC. 22. FEDERAL EXEMPTION FROM STATE WATER LAWS.

''Nothing''.

(v) Section 23 of the Geothermal Steam Act of 1970 (30 U.S.C. 1022) is amended by striking ''SEC. 23. (a) All'' and inserting the following:

''SEC. 23. PREVENTION OF WASTE; EXCLUSIVITY.

''(a) All''.

(w) Section 24 of the Geothermal Steam Act of 1970 (30 U.S.C. 1023) is amended by striking ''SEC. 24. The'' and inserting the following:

''SEC. 24. RULES AND REGULATIONS.

''The''.

(x) Section 25 of the Geothermal Steam Act of 1970 (30 U.S.C. 1024) is amended by striking ''SEC. 25. As'' and inserting the following:

''SEC. 25. INCLUSION OF GEOTHERMAL LEASING UNDER CERTAIN OTHER LAWS.

''As''.

(y) Section 26 of the Geothermal Steam Act of 1970 is amended by striking ''SEC. 26. The'' and inserting the following:

''SEC. 26. AMENDMENT.

''The''.

(z) Section 27 of the Geothermal Steam Act of 1970 (30 U.S.C. 1025) is amended by striking ''SEC. 27. The'' and inserting the following:

''SEC. 27. FEDERAL RESERVATION OF CERTAIN MINERAL RIGHTS.

''The''.

(aa) Section 28 of the Geothermal Steam Act of 1970 (30 U.S.C. 1026) is amended by striking ''SEC. 28. (a)(1) The'' and inserting the following:

''SEC. 28. SIGNIFICANT THERMAL FEATURES.

''(a)(1) The''.

(bb) Section 29 of the Geothermal Steam Act of 1970 (30 U.S.C. 1027) is amended by striking ''SEC. 29. The'' and inserting the following:

''SEC. 29. LAND SUBJECT TO PROHIBITION ON LEASING.

''The''.

Subtitle E—Hydroelectric

SEC. 261. ALTERNATIVE CONDITIONS AND FISHWAYS.

(a) FEDERAL RESERVATIONS.—Section 4(e) of the Federal Power Act (16 U.S.C. 797(e)) is amended by inserting after ''adequate protection and utilization of such reservation.'' at the end of the first proviso the following: ''The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such conditions. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted within a time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of this Act, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.''.

(b) FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by inserting after ''and such fishways as may be prescribed by the Secretary of Commerce.'' the following: ''The license applicant and any party to the proceeding shall be entitled to a determination on the record, after opportunity for an agency trial-type hearing of no more than 90 days, on any disputed issues of material fact with respect to such fishways. All disputed issues of material fact raised by any party shall be determined in a single trial-type hearing to be conducted within a time frame established by the Commission for each license proceeding. Within 90 days of the date of enactment of this Act, the Secretaries of the Interior, Commerce, and Agriculture shall establish jointly, by rule, the procedures for such expedited trial-type hearing, including the opportunity to undertake discovery and cross-examine witnesses, in consultation with the Federal Energy Regulatory Commission.''.

(c) ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.—Part I of the Federal Power Act (16 U.S.C. 791a et seq.) is amended by adding the following new section at the end thereof:

''SEC. 33. ALTERNATIVE CONDITIONS AND PRESCRIPTIONS.

''(a) ALTERNATIVE CONDITIONS.—(1) Whenever any person applies for a license for any project works within any reservation of the United States, and the Secretary of the department under whose supervision such reservation falls (referred to in this subsection as the 'Secretary') deems a condition to such license to be necessary under the first proviso of section 4(e), the license applicant or any other party to the license proceeding may propose an alternative condition.

''(2) Notwithstanding the first proviso of section 4(e), the Secretary shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary determines, based on substantial evidence provided by the license applicant, any other party to the proceeding, or otherwise available to the Secretary, that such alternative condition—

''(A) provides for the adequate protection and utilization of the reservation; and

''(B) the Secretary concurs with the license applicant's judgment that the alternative condition will either—

''(i) cost significantly less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the condition initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any condition under section 4(e) or alternative condition it accepts under this section, a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the condition adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) If the Secretary does not accept an applicant's alternative condition under this section, and the Commission finds that the Secretary's condition would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a non-binding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the reservation. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.

''(b) ALTERNATIVE PRESCRIPTIONS.—(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under section 18, the license applicant or any other party to the license proceeding may propose an alternative to such prescription to construct, maintain, or operate a fishway.

''(2) Notwithstanding section 18, the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant,

any other party to the proceeding, or otherwise available to the Secretary, that such alternative—

''(A) will be no less protective than the fishway initially prescribed by the Secretary; and

''(B) the Secretary concurs with the license applicant's judgment that the alternative prescription will either—

''(i) cost significantly less to implement; or

''(ii) result in improved operation of the project works for electricity production, as compared to the fishway initially deemed necessary by the Secretary.

''(3) The Secretary concerned shall submit into the public record of the Commission proceeding with any prescription under section 18 or alternative prescription it accepts under this section, a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this section. The written statement must demonstrate that the Secretary gave equal consideration to the effects of the prescription adopted and alternatives not accepted on energy supply, distribution, cost, and use; flood control; navigation; water supply; and air quality (in addition to the preservation of other aspects of environmental quality); based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others. The Secretary shall also submit, together with the aforementioned written statement, all studies, data, and other factual information available to the Secretary and relevant to the Secretary's decision.

''(4) If the Secretary concerned does not accept an applicant's alternative prescription under this section, and the Commission finds that the Secretary's prescription would be inconsistent with the purposes of this part, or other applicable law, the Commission may refer the dispute to the Commission's Dispute Resolution Service. The Dispute Resolution Service shall consult with the Secretary and the Commission and issue a nonbinding advisory within 90 days. The Secretary may accept the Dispute Resolution Service advisory unless the Secretary finds that the recommendation will not adequately protect the fish resources. The Secretary shall submit the advisory and the Secretary's final written determination into the record of the Commission's proceeding.''.

SEC. 262. ALASKA STATE JURISDICTION OVER SMALL HYDROELECTRIC PROJECTS.

Section 32 of the Federal Power Act (16 U.S.C. 823c) is amended—

(1) in subsection (a)(3)(C), by inserting ''except as provided in subsection (j),'' before ''conditions''; and

(2) by adding at the end the following:

''(j) FISH AND WILDLIFE.—If the State of Alaska determines that a recommendation under subsection (a)(3)(C) is inconsistent with paragraphs (1) and (2) of subsection (a), the State of Alaska may decline to adopt all or part of the recommendations in accordance with the procedures established under section 10(j)(2).''.

SEC. 263. FLINT CREEK HYDROELECTRIC PROJECT.

(a) EXTENSION OF TIME.—Notwithstanding the time period specified in section 5 of the Federal Power Act (16 U.S.C. 798) that would otherwise apply to the Federal Energy Regulatory Commission (referred to in this section as the ''Commission'') project numbered 12107, the Commission shall—

(1) if the preliminary permit is in effect on the date of enactment of this Act, extend the preliminary permit for a period of 3 years beginning on the date on which the preliminary permit expires; or

(2) if the preliminary permit expired before the date of enactment of this Act, on request of the permittee, reinstate the preliminary permit for an additional 3-year period beginning on the date of enactment of this Act.

(b) LIMITATION ON CERTAIN FEES.—Notwithstanding section 10(e)(1) of the Federal Power Act (16 U.S.C. 803(e)(1)) or any other provision of Federal law providing for the payment to the United States of charges for the use of Federal land for the purposes of operating and maintaining a hydroelectric development licensed by the Commission, any political subdivision of the State of Montana that holds a Commission license for the Commission project numbered 12107 in Granite and Deer Lodge Counties, Montana, shall be required to pay to the United States for the use of that land for each year during which the political subdivision continues to hold the license for the project, the lesser of—

(1) $25,000; or

(2) such annual charge as the Commission or any other department or agency of the Federal Government may assess.

TITLE III—OIL AND GAS

Subtitle A—Petroleum Reserve and Home Heating Oil

SEC. 301. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE AND OTHER ENERGY PROGRAMS.

(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6212 et seq.) is amended—

(1) by striking section 166 (42 U.S.C. 6246) and inserting the following:

''AUTHORIZATION OF APPROPRIATIONS

''SEC. 166. There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this part and part D, to remain available until expended.'';

(2) by striking section 186 (42 U.S.C. 6250e); and

(3) by striking part E (42 U.S.C. 6251).

(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—

(1) by inserting before section 273 (42 U.S.C. 6283) the following:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS'';

(2) by striking section 273(e) (42 U.S.C. 6283(e)); and

(3) by striking part D (42 U.S.C. 6285).

(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended—

(1) by inserting after the items relating to part C of title I the following:

''PART D—NORTHEAST HOME HEATING OIL RESERVE

''Sec. 181. Establishment.
''Sec. 182. Authority.
''Sec. 183. Conditions for release; plan.
''Sec. 184. Northeast Home Heating Oil Reserve Account.
''Sec. 185. Exemptions.'';

(2) by amending the items relating to part C of title II to read as follows:

''PART C—SUMMER FILL AND FUEL BUDGETING PROGRAMS

''Sec. 273. Summer fill and fuel budgeting programs.'';

and

(3) by striking the items relating to part D of title II.

(d) AMENDMENT TO THE ENERGY POLICY AND CONSERVATION ACT.—Section 183(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6250b(b)(1)) is amended by striking ''by more'' and all that follows through ''mid-October through March'' and inserting ''by more than 60 percent over its 5-year rolling average for the months of mid-October through March (considered as a heating season average)''.

(e) FILL STRATEGIC PETROLEUM RESERVE TO CAPACITY.—The Secretary shall, as expeditiously as practicable, without incurring excessive cost or appreciably affecting the price of gasoline or heating oil to consumers, acquire petroleum in quantities sufficient to fill the Strategic Petroleum Reserve to the 1,000,000,000-barrel capacity authorized under section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234(a)), in accordance with the sections 159 and 160 of that Act (42 U.S.C. 6239, 6240).

SEC. 302. NATIONAL OILHEAT RESEARCH ALLIANCE.

Section 713 of the Energy Act of 2000 (Public Law 106–469; 42 U.S.C. 6201 note) is amended by striking ''4'' and inserting ''9''.

Subtitle B—Production Incentives

SEC. 311. DEFINITION OF SECRETARY.

In this subtitle, the term ''Secretary'' means the Secretary of the Interior.

SEC. 312. PROGRAM ON OIL AND GAS ROYALTIES IN-KIND.

(a) APPLICABILITY OF SECTION.—Notwithstanding any other provision of law, this section applies to all royalty in-kind accepted by the Secretary on or after the date of enactment of this Act under any Federal oil or gas lease or permit under—

(1) section 36 of the Mineral Leasing Act (30 U.S.C. 192);

(2) section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353); or

(3) any other Federal law governing leasing of Federal land for oil and gas development.

(b) TERMS AND CONDITIONS.—All royalty accruing to the United States shall, on the demand of the Secretary, be paid in oil or gas. If the Secretary makes such a demand, the following provisions apply to the payment:

(1) SATISFACTION OF ROYALTY OBLIGATION.—Delivery by, or on behalf of, the lessee of the royalty amount and quality due under the lease satisfies royalty obligation of the lessee for the amount delivered, except that transportation and processing reimbursements paid to, or deductions claimed by, the lessee shall be subject to review and audit.

(2) MARKETABLE CONDITION.—

(A) DEFINITION OF MARKETABLE CONDITION.—In this paragraph, the term ''in marketable condition'' means sufficiently free from impurities and otherwise in a condition that the royalty production will be accepted by a purchaser under a sales contract typical of the field or area in which the royalty production was produced.

(B) REQUIREMENT.—Royalty production shall be placed in marketable condition by the lessee at no cost to the United States.

(3) DISPOSITION BY THE SECRETARY.—The Secretary may—

(A) sell or otherwise dispose of any royalty production taken in-kind (other than oil or gas transferred under section 27(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1353(a)(3)) for not less than the market price; and

(B) transport or process (or both) any royalty production taken in-kind.

(4) RETENTION BY THE SECRETARY.—The Secretary may, notwithstanding section 3302 of title 31, United States Code, retain and use a portion of the revenues from the sale of oil and gas taken in-kind that otherwise would be deposited to miscellaneous receipts, without regard to fiscal year limitation, or may use oil or gas received as royalty taken in-kind (referred to in this paragraph as ''royalty production'') to pay the cost of—

(A) transporting the royalty production;

(B) processing the royalty production;

(C) disposing of the royalty production; or

(D) any combination of transporting, processing, and disposing of the royalty production.

(5) LIMITATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary may not use revenues from the sale of oil and gas taken in-kind to pay for personnel, travel, or other administrative costs of the Federal Government.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Secretary may use a portion of the revenues from royalty in-kind sales, without fiscal year limitation, to pay salaries and other administrative costs directly related to the royalty in-kind program.

(c) REIMBURSEMENT OF COST.—If a lessee, pursuant to an agreement with the United States or as provided in the lease, processes the royalty gas or delivers the royalty oil or gas at a point not on or adjacent to the lease area, the Secretary shall—

(1) reimburse the lessee for the reasonable costs of transportation (not including gathering) from the lease to the point of delivery or for processing costs; or

(2) allow the lessee to deduct the transportation or processing costs in reporting and paying royalties in-value for other Federal oil and gas leases.

(d) BENEFIT TO THE UNITED STATES REQUIRED.—The Secretary may receive oil or gas royalties in-kind only if the Secretary determines that receiving royalties in-kind provides benefits to the United States that are greater than or equal to the benefits that are likely to have been received had royalties been taken in-value.

(e) REPORTS.—

(1) IN GENERAL.—Not later than September 30, 2006, the Secretary shall submit to Congress a report that addresses—

(A) actions taken to develop businesses processes and automated systems to fully support the royalty-in-kind capability to be used in tandem with the royalty-in-value approach in managing Federal oil and gas revenue; and

(B) future royalty-in-kind businesses operation plans and objectives.

(2) REPORTS ON OIL OR GAS ROYALTIES TAKEN IN-KIND.—For each of fiscal years 2006 through 2015 in which the United States takes oil or gas royalties in-kind from production in any State or from the outer Continental Shelf, excluding royalties taken in-kind and sold to refineries under subsection (h), the Secretary shall submit to Congress a report that describes—

(A) the 1 or more methodologies used by the Secretary to determine compliance with subsection (d), including the performance standard for comparing amounts received by the United States derived from royalties in-kind to amounts likely to have been received had royalties been taken in-value;

(B) an explanation of the evaluation that led the Secretary to take royalties in-kind from a lease or group of leases, including the expected revenue effect of taking royalties in-kind;

(C) actual amounts received by the United States derived from taking royalties in-kind and costs and savings incurred by the United States associated with taking royalties in-kind, including administrative savings and any new or increased administrative costs; and

(D) an evaluation of other relevant public benefits or detriments associated with taking royalties in-kind.

(f) DEDUCTION OF EXPENSES.—

(1) IN GENERAL.—Before making payments under section 35 of the Mineral Leasing Act (30 U.S.C. 191) or section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)) of revenues derived from the sale of royalty production taken in-kind from a lease, the Secretary shall deduct amounts paid or deducted under subsections (b)(4) and (c) and deposit the amount of the deductions in the miscellaneous receipts of the Treasury.

(2) ACCOUNTING FOR DEDUCTIONS.—If the Secretary allows the lessee to deduct transportation or processing costs under subsection (c), the Secretary may not reduce any payments to recipients of revenues derived from any other Federal oil and gas lease as a consequence of that deduction.

(g) CONSULTATION WITH STATES.—The Secretary—

(1) shall consult with a State before conducting a royalty in-kind program under this subtitle within the State;

(2) may delegate management of any portion of the Federal royalty in-kind program to the State except as otherwise prohibited by Federal law; and

(3) shall consult annually with any State from which Federal oil or gas royalty is being taken in-kind to ensure, to the maximum extent practicable, that the royalty in-kind program provides revenues to the State greater than or equal to the revenues likely to have been received had royalties been taken in-value.

(h) SMALL REFINERIES.—

(1) PREFERENCE.—If the Secretary finds that sufficient supplies of crude oil are not available in the open market to refineries that do not have their own source of supply for crude oil, the Secretary may grant preference to those refineries in the sale of any royalty oil accruing or reserved to the United States under Federal oil and gas leases issued under any mineral leasing law, for processing or use in those refineries at private sale at not less than the market price.

(2) PRORATION AMONG REFINERIES IN PRODUCTION AREA.—In disposing of oil under this subsection, the Secretary may, at the discretion of the Secretary, prorate the oil among refineries described in paragraph (1) in the area in which the oil is produced.

(i) DISPOSITION TO FEDERAL AGENCIES.—

(1) ONSHORE ROYALTY.—Any royalty oil or gas taken by the Secretary in-kind from onshore oil and gas leases may be sold at not less than the market price to any Federal agency.

(2) OFFSHORE ROYALTY.—Any royalty oil or gas taken in-kind from a Federal oil or gas lease on the outer Continental Shelf may be disposed of only under section 27 of the Outer Continental Shelf Lands Act (43 U.S.C. 1353).

(j) FEDERAL LOW-INCOME ENERGY ASSISTANCE PROGRAMS.—

(1) PREFERENCE.—In disposing of royalty oil or gas taken in-kind under this section, the Secretary may grant a preference to any person, including any Federal or State agency, for the purpose of providing additional resources to any Federal low-income energy assistance program.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit a report to Congress—

(A) assessing the effectiveness of granting preferences specified in paragraph (1); and

(B) providing a specific recommendation on the continuation of authority to grant preferences.

SEC. 313. MARGINAL PROPERTY PRODUCTION INCENTIVES.

(a) DEFINITION OF MARGINAL PROPERTY.—Until such time as the Secretary issues regulations under subsection (e) that prescribe a different definition, in this section, the term ''marginal property'' means an onshore unit, communitization agreement, or lease not within a unit or communitization agreement, that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90,000,000 British thermal units of gas per well per day calculated based on the average over the 3 most recent production months, including only wells that produce on more than half of the days during those 3 production months.

(b) CONDITIONS FOR REDUCTION OF ROYALTY RATE.—Until such time as the Secretary issues regulations under subsection (e) that prescribe different standards or requirements, the Secretary shall reduce the royalty rate on—

(1) oil production from marginal properties as prescribed in subsection (c) if the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, is, on average, less than $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; and

(2) gas production from marginal properties as prescribed in subsection (c) if the spot price of natural gas delivered at Henry Hub, Louisiana, is, on average, less than $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days.

(c) REDUCED ROYALTY RATE.—

(1) IN GENERAL.—When a marginal property meets the conditions specified in subsection (b), the royalty rate shall be the lesser of—

(A) 5 percent; or

(B) the applicable rate under any other statutory or regulatory royalty relief provision that applies to the affected production.

(2) PERIOD OF EFFECTIVENESS.—The reduced royalty rate under this subsection shall be effective beginning on the first day of the production month following the date on which the applicable condition specified in subsection (b) is met.

(d) TERMINATION OF REDUCED ROYALTY RATE.—A royalty rate prescribed in subsection (c)(1)(A) shall terminate—

(1) with respect to oil production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of West Texas Intermediate crude oil at Cushing, Oklahoma, on average, exceeds $15 per barrel (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property; and

(2) with respect to gas production from a marginal property, on the first day of the production month following the date on which—

(A) the spot price of natural gas delivered at Henry Hub, Louisiana, on average, exceeds $2.00 per million British thermal units (adjusted in accordance with the Consumer Price Index for all-urban consumers, United States city average, as published by the Bureau of Labor Statistics) for 90 consecutive trading days; or

(B) the property no longer qualifies as a marginal property.

(e) REGULATIONS PRESCRIBING DIFFERENT RELIEF.—

(1) DISCRETIONARY REGULATIONS.—The Secretary may by regulation prescribe different parameters, standards, and requirements for, and a different degree or extent of, royalty relief for marginal properties in lieu of those prescribed in subsections (a) through (d).

(2) ROYALTY RELIEF FOR OFFSHORE WELLS.—With respect to royalty relief for oil or gas produced from wells located on the outer

Continental Shelf, the Secretary shall use authority available to the Secretary as of the day before the date of enactment of this Act—

(A) to accept and consider petitions from persons seeking, and providing justification for, royalty relief for 1 or more of those wells; and

(B) not later than 90 days after the date of receipt of a petition, on a case-by-case basis—

(i) approve the petition and provide royalty relief or a royalty reduction for oil or gas produced from the wells covered by the petition; or

(ii) disapprove the petition.

(3) CONSIDERATIONS.—In issuing regulations under this subsection, the Secretary may consider—

(A) oil and gas prices and market trends;

(B) production costs;

(C) abandonment costs;

(D) Federal and State tax provisions and the effects of those provisions on production economics;

(E) other royalty relief programs;

(F) regional differences in average wellhead prices;

(G) national energy security issues; and

(H) other relevant matters, as determined by the Secretary.

(f) SAVINGS PROVISION.—Nothing in this section prevents a lessee from receiving royalty relief or a royalty reduction pursuant to any other law (including a regulation) that provides more relief than the amounts provided by this section.

SEC. 314. INCENTIVES FOR NATURAL GAS PRODUCTION FROM DEEP WELLS IN THE SHALLOW WATERS OF THE GULF OF MEXICO.

(a) DEFINITIONS.—In this section:

(1) LEASE ISSUED IN SHALLOW WATERS.—The term ''lease issued in shallow waters'' means—

(A) a lease entirely in water less than 200 meters deep; or

(B) a lease—

(i) partially in water less than 200 meters deep; and

(ii) to which no royalty relief provisions in law or lease terms apply.

(2) SIDETRACK.—

(A) IN GENERAL.—The term ''sidetrack'' means a well resulting from drilling an additional hole to a new objective bottom-hole location by leaving a previously drilled hole.

(B) INCLUSION.—The term ''sidetrack'' includes—

(i) drilling a well from a platform slot reclaimed from a previously drilled well;

(ii) re-entering and deepening a previously drilled well; and

(iii) a bypass from a sidetrack, including drilling around material blocking a hole or drilling to straighten a crooked hole.

(3) ULTRA DEEP WELL.—The term ''ultra deep well'' means a well drilled with a perforated interval, the top of which is at least 20,000 feet true vertical depth below the datum at mean sea level.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, in addition to any other regulations that may provide royalty incentives for natural gas produced from deep wells on oil and gas leases issued pursuant to, or regulated under, the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), the Secretary shall issue regulations granting royalty relief suspension volumes of not less than 35,000,000,000 cubic feet with respect to the production of natural gas from ultra deep wells on leases issued in shallow waters located in the Gulf of Mexico wholly west of 87°, 30'' West longitude that are issued before the date that is 180 days after the date of enactment of this Act.

(2) SUSPENSION VOLUMES.—The Secretary may grant suspension volumes of less than 35,000,000,000 cubic feet in any case in which—

(A) the ultra deep well is a sidetrack; or

(B) the lease has previously produced from wells with a perforated interval the top of which is at least 15,000 feet true vertical depth below the datum at mean sea level.

(c) LIMITATION.—The Secretary shall not grant royalty incentives under this section if the average annual natural gas price on the New York Mercantile Exchange exceeds a threshold price specified, and adjusted for inflation, by the Secretary.

(d) APPLICABILITY.—

(1) IN GENERAL.—Royalty incentives under this subsection apply only to natural gas production from ultra deep wells that are drilled after the date of enactment of this Act.

(2) REVIEW AND SUSPENSION.—Not earlier than 10 years after the date of enactment of this Act, the Secretary may—

(A) review the relief granted under this section; and

(B) by regulation, modify or suspend the relief.

SEC. 315. ROYALTY RELIEF FOR DEEP WATER PRODUCTION.

(a) IN GENERAL.—Subject to subsections (b) and (c), for each tract located in water depths of greater than 400 meters in the Western and Central Planning Area of the Gulf of Mexico (including the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude), any oil or gas lease sale under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) occurring during the 5-year period beginning on the date of enactment of this Act shall use the bidding system authorized under section 8(a)(1)(H) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(1)(H)).

(b) SUSPENSION OF ROYALTIES.—The suspension of royalties under subsection (a) shall be established at a volume of not less than—

(1) 5,000,000 barrels of oil equivalent for each lease in water depths of 400 meters or more but less than 800 meters;

(2) 9,000,000 barrels of oil equivalent for each lease in water depths of 800 meters or more but not greater than 1,600 meters; and

(3) 12,000,000 barrels of oil equivalent for each lease in water depths greater than 1,600 meters.

(c) LIMITATION.—The Secretary may place limitations on royalty relief granted under this section based on market price.

SEC. 316. ALASKA OFFSHORE ROYALTY SUSPENSION.

Section 8(a)(3)(B) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)(B)) is amended by inserting ''and in the Planning Areas offshore Alaska,'' after ''West longitude,''.

SEC. 317. OIL AND GAS LEASING IN THE NATIONAL PETROLEUM RESERVE IN ALASKA.

(a) TRANSFER OF AUTHORITY.—

(1) REDESIGNATION.—The Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.) is amended by redesignating section 107 (42 U.S.C. 6507) as section 108.

(2) TRANSFER.—The matter under the heading ''EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA'' under the heading ''ENERGY AND MINERALS'' of title I of Public Law 96–514 (42 U.S.C. 6508) is—

(A) transferred to the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6501 et seq.);

(B) redesignated as section 107 of that Act; and

(C) moved so as to appear after section 106 of that Act (42 U.S.C. 6506).

(b) COMPETITIVE LEASING.—Section 107 of the Naval Petroleum Reserves Production Act of 1976 (as amended by subsection (a)(2)) is amended—

(1) by striking the heading and all that follows through ''*Provided*, That (1) activities'' and inserting the following:

''SEC. 107. COMPETITIVE LEASING OF OIL AND GAS.

''(a) IN GENERAL.—The Secretary shall conduct an expeditious program of competitive leasing of oil and gas in the Reserve in accordance with this Act.

''(b) MITIGATION OF ADVERSE EFFECTS.—

''(1) IN GENERAL.—Activities'';

(2) in subsection (b)(1) (as designated by paragraph (1)), by striking ''to mitigate'' and inserting ''to prevent to the extent practicable, and to mitigate,'';

(3) by striking ''Alaska (the Reserve); (2) the'' and inserting ''Alaska.

''(2) CERTAIN RESOURCES AND FACILITIES.—In carrying out the leasing program under this section, the Secretary shall minimize, to the extent practicable, the impact to surface resources and consolidate facilities.

''(c) LAND USE PLANNING; BLM WILDERNESS STUDY.—The'';

(4) by striking ''Reserve; (3) the'' and inserting ''Reserve.

''(d) FIRST LEASE SALE.—The;'';

(5) by striking ''4332); (4) the'' and inserting ''4321 et seq.).

''(e) WITHDRAWALS.—The'';

(6) by striking ''herein; (5) bidding'' and inserting ''under this section.

''(f) BIDDING SYSTEMS.—Bidding'';

(7) by striking ''629); (6) lease'' and inserting ''629).

''(g) GEOLOGICAL STRUCTURES.—Lease'';

(8) by striking ''structures; (7) the'' and inserting ''structures.

''(h) SIZE OF LEASE TRACTS.—The'';

(9) by striking ''Secretary; (8)'' and all that follows through ''Drilling, production,'' and inserting ''Secretary.

''(i) TERMS.—

''(1) IN GENERAL.—Each lease shall be issued for an initial period of not more than 10 years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities or drilling or reworking operations, as approved by the Secretary, are conducted on the leased land.

''(2) TERMINATION.—No lease issued under this section covering lands capable of producing oil or gas in paying quantities shall expire because the lessee fails to produce the same unless the lessee is allowed a reasonable time, which shall be not less than 60 days after notice by registered or certified mail, within which to place the lands in producing status or unless, after such status is established, production is discontinued on the leased premises without permission granted by the Secretary under the provisions of this Act.

''(3) RENEWAL OF LEASES WITHOUT DISCOVERIES.—At the end of the primary term of a lease, the Secretary shall renew for one additional 10-year term a lease that does not meet the requirements of paragraph (1) if the lessee submits to the Secretary an application for renewal not later than 60 days before the expiration of the primary lease, pays the Secretary a renewal fee of $100 per acre of leased land, and—

''(A) the lessee provides evidence, and the Secretary agrees that, the lessee has diligently pursued exploration that warrants continuation with the intent of continued exploration or future potential development of the leased land; or

''(B) all or part of the lease

''(i) is part of a unit agreement covering a lease described in subparagraph (A); and

''(ii) has not been previously contracted out of the unit.

''(4) APPLICABILITY.—This subsection applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.

''(j) UNIT AGREEMENTS.—

''(1) IN GENERAL.—For the purpose of conservation of the natural resources of all or part of any oil or gas pool, field, reservoir, or like area, lessees (including representatives) of the pool, field, reservoir, or like area may unite with each other, or jointly or separately with others, in collectively adopting and operating under a unit agreement for all or part of the pool, field, reservoir, or like area (whether or not any other part of the oil or gas pool, field, reservoir, or like area is already subject to any cooperative or unit plan of development or operation), if the Secretary determines the action to be necessary or advisable in the public interest. In determining the public interest, the Secretary shall, among other things, examine the extent to which the unit agreement will minimize the impact to surface resources of the leases and will facilitate consolidation of facilities.

''(2) CONSULTATION.—In making a determination under paragraph (1), the Secretary shall consult with the State of Alaska or a Regional Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)) with respect to the creation or expansion of units that include acreage in which the State of Alaska or the Regional Corporation has an interest in the mineral estate.

''(3) PRODUCTION ALLOCATION METHODOLOGY.—(A) The Secretary may use a production allocation methodology for each participating area within a unit that includes solely Federal land in the Reserve.

''(B) The Secretary shall use a production allocation methodology for each participating area within a unit that includes Federal land in the Reserve and non-Federal land based on the characteristics of each specific oil or gas pool, field, reservoir, or like area to take into account reservoir heterogeneity and area variation in reservoir producibility across diverse leasehold interests. The implementation of the foregoing production allocation methodology shall be controlled by agreement among the affected lessors and lessees.

''(4) BENEFIT OF OPERATIONS.—Drilling, production,'';

(10) by striking ''When separate'' and inserting the following:

''(5) POOLING.—If separate'';

(11) by inserting ''(in consultation with the owners of the other land)'' after ''determined by the Secretary of the Interior'';

(12) by striking ''thereto; (10) to'' and all that follows through ''the terms provided therein'' and inserting ''to the agreement.

''(k) EXPLORATION INCENTIVES.—

''(1) IN GENERAL.—

''(A) WAIVER, SUSPENSION, OR REDUCTION.—To encourage the greatest ultimate recovery of oil or gas or in the interest of conservation, the Secretary may waive, suspend, or reduce the rental fees or minimum royalty, or reduce the royalty on an entire leasehold (including on any lease operated pursuant to a unit agreement), whenever (after consultation with the State of Alaska and the North Slope Borough of Alaska and the concurrence of any Regional Corporation for leases that include land that was made available for acquisition by the Regional Corporation under the provisions of section 1431(o) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.)) in the judgment of the Secretary it is necessary to do so to promote development, or whenever in the judgment of the Secretary the leases cannot be successfully operated under the terms provided therein.

''(B) APPLICABILITY.—This paragraph applies to a lease that is in effect on or after the date of enactment of the Energy Policy Act of 2005.'';

(13) by striking ''The Secretary is authorized to'' and inserting the following:

''(2) SUSPENSION OF OPERATIONS AND PRODUCTION.—The Secretary may'';

(14) by striking ''In the event'' and inserting the following:

''(3) SUSPENSION OF PAYMENTS.—If'';

(15) by striking ''thereto; and (11) all'' and inserting ''to the lease.

''(1) RECEIPTS.—All'';

(16) by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively;

(17) by striking ''Any agency'' and inserting the following:

''(m) EXPLORATIONS.—Any agency'';

(18) by striking ''Any action'' and inserting the following:

''(n) ENVIRONMENTAL IMPACT STATEMENTS.—

''(1) JUDICIAL REVIEW.—Any action'';

(19) by striking ''The detailed'' and inserting the following:

''(2) INITIAL LEASE SALES.—The detailed'';

(20) by striking ''of the Naval Petroleum Reserves Production Act of 1976 (90 Stat. 304; 42 U.S.C. 6504)''; and

(21) by adding at the end the following:

''(o) REGULATIONS.—As soon as practicable after the date of enactment of the Energy Policy Act of 2005, the Secretary shall issue regulations to implement this section.

''(p) WAIVER OF ADMINISTRATION FOR CONVEYED LANDS.—

''(1) IN GENERAL.—Notwithstanding section 14(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(g)), the Secretary of the Interior shall waive administration of any oil and gas lease to the extent that the lease covers any land in the Reserve in which all of the subsurface estate is conveyed to the Arctic Slope Regional Corporation (referred to in this subsection as the 'Corporation').

''(2) PARTIAL CONVEYANCE.—

''(A) IN GENERAL.—In a case in which a conveyance of a subsurface estate described in paragraph (1) does not include all of the land covered by the oil and gas lease, the person that owns the subsurface estate in any particular portion of the land covered by the lease shall be entitled to all of the revenues reserved under the lease as to that portion, including, without limitation, all the royalty payable with respect to oil or gas produced from or allocated to that portion.

''(B) SEGREGATION OF LEASE.—In a case described in subparagraph (A), the Secretary of the Interior shall—

''(i) segregate the lease into 2 leases, 1 of which shall cover only the subsurface estate conveyed to the Corporation; and

''(ii) waive administration of the lease that covers the subsurface estate conveyed to the Corporation.

''(C) NO CHANGE IN LEASE OBLIGATIONS.—The segregation of the lease described in subparagraph (B)(i) has no effect on the obligations of the lessee under either of the resulting leases, including obligations relating to operations, production, or other circumstances (other than payment of rentals or royalties).

''(3) AUTHORITY TO MANAGE FEDERALLY OWNED SURFACE ESTATE.—Nothing in this subsection limits the authority of the Secretary of the Interior to manage the federally-owned surface estate within the Reserve.''.

(c) CONFORMING AMENDMENTS.—Section 104 of the Naval Petroleum Reserves Production Act of 1976 (42 U.S.C. 6504) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) through (d) as subsections (a) through (c), respectively.

SEC. 318. NORTH SLOPE SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Interior shall establish a long-term initiative to be known as the ''North Slope Science Initiative'' (referred to in this section as the ''Initiative'').

(2) PURPOSE.—The purpose of the Initiative shall be to implement efforts to coordinate collection of scientific data that will provide a better understanding of the terrestrial, aquatic, and marine ecosystems of the North Slope of Alaska.

(b) OBJECTIVES.—To ensure that the Initiative is conducted through a comprehensive science strategy and implementation plan, the Initiative shall, at a minimum—

(1) identify and prioritize information needs for inventory, monitoring, and research activities to address the individual and cumulative effects of past, ongoing, and anticipated development activities and environmental change on the North Slope;

(2) develop an understanding of information needs for regulatory and land management agencies, local governments, and the public;

(3) focus on prioritization of pressing natural resource management and ecosystem information needs, coordination, and cooperation among agencies and organizations;

(4) coordinate ongoing and future inventory, monitoring, and research activities to minimize duplication of effort, share financial resources and expertise, and assure the collection of quality information;

(5) identify priority needs not addressed by agency science programs in effect on the date of enactment of this Act and develop a funding strategy to meet those needs;

(6) provide a consistent approach to high caliber science, including inventory, monitoring, and research;

(7) maintain and improve public and agency access to—

(A) accumulated and ongoing research; and

(B) contemporary and traditional local knowledge; and

(8) ensure through appropriate peer review that the science conducted by participating agencies and organizations is of the highest technical quality.

(c) MEMBERSHIP.—

(1) IN GENERAL.—To ensure comprehensive collection of scientific data, in carrying out the Initiative, the Secretary shall consult and coordinate with Federal, State, and local agencies that have responsibilities for land and resource management across the North Slope.

(2) COOPERATIVE AGREEMENTS.—The Secretary shall enter into cooperative agreements with the State of Alaska, the North Slope Borough, the Arctic Slope Regional Corporation, and other Federal agencies as appropriate to coordinate efforts, share resources, and fund projects under this section.

(d) SCIENCE TECHNICAL ADVISORY PANEL.—

(1) IN GENERAL.—The Initiative shall include a panel to provide advice on proposed inventory, monitoring, and research functions.

(2) MEMBERSHIP.—The panel described in paragraph (1) shall consist of a representative group of not more than 15 scientists and technical experts from diverse professions and interests, including the oil and gas industry, subsistence users, Native Alaskan entities, conservation organizations, wildlife management organizations, and academia, as determined by the Secretary.

(e) REPORTS.—Not later than 3 years after the date of enactment of this section and each year thereafter, the Secretary shall

publish a report that describes the studies and findings of the Initiative.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 319. ORPHANED, ABANDONED, OR IDLED WELLS ON FEDERAL LAND.

(a) IN GENERAL.—The Secretary, in cooperation with the Secretary of Agriculture, shall establish a program not later than 1 year after the date of enactment of this Act to remediate, reclaim, and close orphaned, abandoned, or idled oil and gas wells located on land administered by the land management agencies within the Department of the Interior and the Department of Agriculture.

(b) ACTIVITIES.—The program under subsection (a) shall—

(1) include a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities;

(2) provide for identification and recovery of the costs of remediation, reclamation, and closure from persons or other entities currently providing a bond or other financial assurance required under State or Federal law for an oil or gas well that is orphaned, abandoned, or idled; and

(3) provide for recovery from the persons or entities identified under paragraph (2), or their sureties or guarantors, of the costs of remediation, reclamation, and closure of such wells.

(c) COOPERATION AND CONSULTATIONS.—In carrying out the program under subsection (a), the Secretary shall—

(1) work cooperatively with the Secretary of Agriculture and the States within which Federal land is located; and

(2) consult with the Secretary of Energy and the Interstate Oil and Gas Compact Commission.

(d) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation with the Secretary of Agriculture, shall submit to Congress a plan for carrying out the program under subsection (a).

(e) IDLED WELL.—For the purposes of this section, a well is idled if—

(1) the well has been nonoperational for at least 7 years; and

(2) there is no anticipated beneficial use for the well.

(f) TECHNICAL ASSISTANCE PROGRAM FOR NON-FEDERAL LAND.—

(1) IN GENERAL.—The Secretary of Energy shall establish a program to provide technical and financial assistance to oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned or abandoned oil and gas exploration or production well sites on State or private land.

(2) ASSISTANCE.—The Secretary of Energy shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore orphaned or abandoned oil or gas wells on State and private land.

(3) ACTIVITIES.—The program under paragraph (1) shall include—

(A) mechanisms to facilitate identification, if feasible, of the persons currently providing a bond or other form of financial assurance required under State or Federal law for an oil or gas well that is orphaned or abandoned;

(B) criteria for ranking orphaned or abandoned well sites based on factors such as public health and safety, potential environmental harm, and other land use priorities;

(C) information and training programs on best practices for remediation of different types of sites; and

(D) funding of State mitigation efforts on a cost-shared basis.

(g) 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 2006 through 2010.

(2) USE.—Of the amounts authorized under paragraph (1), $5,000,000 are authorized for each fiscal year for activities under subsection (f).

SEC. 320. COMBINED HYDROCARBON LEASING.

(a) SPECIAL PROVISIONS REGARDING LEASING.—Section 17(b)(2) of the Mineral Leasing Act (30 U.S.C. 226(b)(2)) is amended—

(1) by inserting ''(A)'' after ''(2)'';

(2) in the first sentence of subparagraph (A) (as designated by paragraph (1)), by striking ''they shall be'' and inserting ''the lands may be''; and

(3) by adding at the end the following:

''(B) For any area that contains any combination of tar sand and oil or gas (or both), the Secretary may issue under this Act, separately—

''(i) a lease for exploration for and extraction of tar sand; and

''(ii) a lease for exploration for and development of oil and gas.

''(C) A lease described in subparagraph (B) shall have provisions addressing the appropriate accommodation of resources.

''(D) A lease issued for tar sand development shall be issued using the same bidding process, annual rental, and posting period as a lease issued for oil and gas, except that the minimum acceptable bid required for a lease issued for tar sand shall be $2 per acre.''.

(b) CONFORMING AMENDMENT.—Section 17(b)(1)(B) of the Mineral Leasing Act (30 U.S.C. 226(b)(1)(B)) is amended in the second sentence by inserting ''subject to paragraph (2)(B),'' after ''Thereafter,''.

(c) REGULATIONS.—Not later than 45 days after the date of enactment of this Act, the Secretary of the Interior shall issue final regulations to implement the amendments made by this section.

SEC. 321. ALTERNATE ENERGY-RELATED USES ON THE OUTER CONTINENTAL SHELF.

(a) AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

''(p) LEASES, EASEMENTS, OR RIGHTS-OF-WAY FOR ENERGY AND RELATED PURPOSES.—

''(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Department in which the Coast Guard is operating and other relevant departments and agencies of the Federal Government, may grant a lease, easement, or right-of-way on the outer Continental Shelf for activities not otherwise authorized in this Act, the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.), the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), or other applicable law, if those activities—

''(A) support exploration, development, or production of oil or natural gas, except that a lease, easement, or right-of-way shall not be granted in an area in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium;

''(B) support transportation of oil or natural gas, excluding shipping activities;

''(C) produce or support production, transportation, or transmission of energy from sources other than oil and gas; or

''(D) use, for energy-related purposes or for other authorized marine-related purposes, facilities currently or previously used for activities authorized under this Act, except that any oil and gas energy-related uses shall not be authorized in areas in which oil and gas preleasing, leasing, and related activities are prohibited by a moratorium.

''(2) PAYMENTS.—The Secretary shall establish royalties, fees, rentals, bonus, or other payments to ensure a fair return to the United States for any lease, easement, or right-of-way granted under this subsection.

''(3) COMPETITIVE OR NONCOMPETITIVE BASIS.—Except with respect to projects that meet the criteria established under section 321(d) of the Energy Policy Act of 2005, the Secretary shall issue a lease, easement, or right-of-way under paragraph (1) on a competitive basis unless the Secretary determines after public notice of a proposed lease, easement, or right-of-way that there is no competitive interest.

''(4) REQUIREMENTS.—The Secretary shall ensure that any activity under this subsection is carried out in a manner that provides for—

''(A) safety;

''(B) protection of the environment;

''(C) prevention of waste;

''(D) conservation of the natural resources of the outer Continental Shelf;

''(E) coordination with relevant Federal agencies;

''(F) protection of national security interests of the United States;

''(G) protection of correlative rights in the outer Continental Shelf;

''(H) a fair return to the United States for any lease, easement, or right-of-way under this subsection;

''(I) prevention of interference with reasonable uses (as determined by the Secretary) of the exclusive economic zone, the high seas, and the territorial seas;

''(J) consideration of—

''(i) the location of, and any schedule relating to, a lease, easement, or right-of-way for an area of the outer Continental Shelf; and

''(ii) any other use of the sea or seabed, including use for a fishery, a sealane, a potential site of a deepwater port, or navigation;

''(K) public notice and comment on any proposal submitted for a lease, easement, or right-of-way under this subsection; and

''(L) oversight, inspection, research, monitoring, and enforcement relating to a lease, easement, or right-of-way under this subsection.

''(5) LEASE DURATION, SUSPENSION, AND CANCELLATION.—The Secretary shall provide for the duration, issuance, transfer, renewal, suspension, and cancellation of a lease, easement, or right-of-way under this subsection.

''(6) SECURITY.—The Secretary shall require the holder of a lease, easement, or right-of-way granted under this subsection to—

''(A) furnish a surety bond or other form of security, as prescribed by the Secretary;

''(B) comply with such other requirements as the Secretary considers necessary to protect the interests of the public and the United States; and

''(C) provide for the restoration of the lease, easement, or right-of-way.

''(7) COORDINATION AND CONSULTATION WITH AFFECTED STATE AND LOCAL GOVERNMENTS.—The Secretary shall provide for coordination and consultation with the Governor of any State or the executive of any local government that may be affected by a lease, easement, or right-of-way under this subsection.

''(8) REGULATIONS.—Not later than 270 days after the date of enactment of the Energy Policy Act of 2005, the Secretary, in consultation with the Secretary of Defense, the Secretary of the Department in which the Coast Guard is operating, the Secretary of Commerce, heads of other relevant departments and agencies of the Federal Government, and the Governor of any affected

State, shall issue any necessary regulations to carry out this subsection.

''(9) EFFECT OF SUBSECTION.—Nothing in this subsection displaces, supersedes, limits, or modifies the jurisdiction, responsibility, or authority of any Federal or State agency under any other Federal law.

''(10) APPLICABILITY.—This subsection does not apply to any area on the outer Continental Shelf within the exterior boundaries of any unit of the National Park System, National Wildlife Refuge System, or National Marine Sanctuary System, or any National Monument.''.

(b) COORDINATED OCS MAPPING INITIATIVE.—

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of Commerce, the Commandant of the Coast Guard, and the Secretary of Defense, shall establish an interagency comprehensive digital mapping initiative for the outer Continental Shelf to assist in decisionmaking relating to the siting of activities under subsection (p) of section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) (as added by subsection (a)).

(2) USE OF DATA.—The mapping initiative shall use, and develop procedures for accessing, data collected before the date on which the mapping initiative is established, to the maximum extent practicable.

(3) INCLUSIONS.—Mapping carried out under the mapping initiative shall include an indication of the locations on the outer Continental Shelf of—

(A) Federally-permitted activities;

(B) obstructions to navigation;

(C) submerged cultural resources;

(D) undersea cables;

(E) offshore aquaculture projects; and

(F) any area designated for the purpose of safety, national security, environmental protection, or conservation and management of living marine resources.

(c) CONFORMING AMENDMENT.—Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by striking the section heading and inserting the following: ''LEASES, EASEMENTS, AND RIGHTS-OF-WAY ON THE OUTER CONTINENTAL SHELF.—''.

(d) SAVINGS PROVISION.—Nothing in the amendment made by subsection (a) requires the resubmittal of any document that was previously submitted or the reauthorization of any action that was previously authorized with respect to a project for which, before the date of enactment of this Act—

(1) an offshore test facility has been constructed; or

(2) a request for a proposal has been issued by a public authority.

SEC. 322. PRESERVATION OF GEOLOGICAL AND GEOPHYSICAL DATA.

(a) SHORT TITLE.—This section may be cited as the ''National Geological and Geophysical Data Preservation Program Act of 2005''.

(b) PROGRAM.—The Secretary shall carry out a National Geological and Geophysical Data Preservation Program in accordance with this section—

(1) to archive geologic, geophysical, and engineering data, maps, well logs, and samples;

(2) to provide a national catalog of such archival material; and

(3) to provide technical and financial assistance related to the archival material.

(c) PLAN.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a plan for the implementation of the Program.

(d) DATA ARCHIVE SYSTEM.—

(1) ESTABLISHMENT.—The Secretary shall establish, as a component of the Program, a data archive system to provide for the storage, preservation, and archiving of subsurface, surface, geological, geophysical, and engineering data and samples. The Secretary, in consultation with the Advisory Committee, shall develop guidelines relating to the data archive system, including the types of data and samples to be preserved.

(2) SYSTEM COMPONENTS.—The system shall be comprised of State agencies that elect to be part of the system and agencies within the Department of the Interior that maintain geological and geophysical data and samples that are designated by the Secretary in accordance with this subsection. The Program shall provide for the storage of data and samples through data repositories operated by such agencies.

(3) LIMITATION OF DESIGNATION.—The Secretary may not designate a State agency as a component of the data archive system unless that agency is the agency that acts as the geological survey in the State.

(4) DATA FROM FEDERAL LAND.—The data archive system shall provide for the archiving of relevant subsurface data and samples obtained from Federal land—

(A) in the most appropriate repository designated under paragraph (2), with preference being given to archiving data in the State in which the data were collected; and

(B) consistent with all applicable law and requirements relating to confidentiality and proprietary data.

(e) NATIONAL CATALOG.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall develop and maintain, as a component of the Program, a national catalog that identifies—

(A) data and samples available in the data archive system established under subsection (d);

(B) the repository for particular material in the system; and

(C) the means of accessing the material.

(2) AVAILABILITY.—The Secretary shall make the national catalog accessible to the public on the site of the Survey on the Internet, consistent with all applicable requirements related to confidentiality and proprietary data.

(f) ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Advisory Committee shall advise the Secretary on planning and implementation of the Program.

(2) NEW DUTIES.—In addition to its duties under the National Geologic Mapping Act of 1992 (43 U.S.C. 31a et seq.), the Advisory Committee shall perform the following duties:

(A) Advise the Secretary on developing guidelines and procedures for providing assistance for facilities under subsection (g)(1).

(B) Review and critique the draft implementation plan prepared by the Secretary under subsection (c).

(C) Identify useful studies of data archived under the Program that will advance understanding of the Nation's energy and mineral resources, geologic hazards, and engineering geology.

(D) Review the progress of the Program in archiving significant data and preventing the loss of such data, and the scientific progress of the studies funded under the Program.

(E) Include in the annual report to the Secretary required under section 5(b)(3) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)(3)) an evaluation of the progress of the Program toward fulfilling the purposes of the Program under subsection (b).

(g) FINANCIAL ASSISTANCE.—

(1) ARCHIVE FACILITIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to a State agency that is designated under subsection (d)(2) for providing facilities to archive energy material.

(2) STUDIES.—Subject to the availability of appropriations, the Secretary shall provide financial assistance to any State agency designated under subsection (d)(2) for studies and technical assistance activities that enhance understanding, interpretation, and use of materials archived in the data archive system established under subsection (d).

(3) FEDERAL SHARE.—The Federal share of the cost of an activity carried out with assistance under this subsection shall be not more than 50 percent of the total cost of the activity.

(4) PRIVATE CONTRIBUTIONS.—The Secretary shall apply to the non-Federal share of the cost of an activity carried out with assistance under this subsection the value of private contributions of property and services used for that activity.

(h) REPORT.—The Secretary shall include in each report under section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g)—

(1) a description of the status of the Program;

(2) an evaluation of the progress achieved in developing the Program during the period covered by the report; and

(3) any recommendations for legislative or other action the Secretary considers necessary and appropriate to fulfill the purposes of the Program under subsection (b).

(i) MAINTENANCE OF STATE EFFORT.—It is the intent of Congress that the States not use this section as an opportunity to reduce State resources applied to the activities that are the subject of the Program.

(j) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the advisory committee established under section 5 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d).

(2) PROGRAM.—The term ''Program'' means the National Geological and Geophysical Data Preservation Program carried out under this section.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of the United States Geological Survey.

(4) SURVEY.—The term ''Survey'' means the United States Geological Survey.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for each of fiscal years 2006 through 2010.

SEC. 323. OIL AND GAS LEASE ACREAGE LIMITATIONS.

Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sand areas'' the following: '', and acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement or for which royalty (including compensatory royalty or royalty in-kind) was paid in the preceding calendar year,''.

SEC. 324. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.

(a) ASSESSMENT.—The Secretary shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—

(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;

(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;

(3) the technical and economic feasibility of increasing the contribution of renewable

energy resources for generation of electricity, on an island-by-island basis, including—

(A) siting and facility configuration;

(B) environmental, operational, and safety considerations;

(C) the availability of technology;

(D) the effects on the utility system, including reliability;

(E) infrastructure and transport requirements;

(F) community support; and

(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);

(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of the displacement on the economic relationship described in paragraph (2), including—

(A) the availability of supply;

(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;

(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and

(D) other economic factors;

(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of the displacement on the relationship described in (2); and

(6) an island-by-island approach to—

(A) the development of hydrogen from renewable resources; and

(B) the application of hydrogen to the energy needs of Hawaii

(b) CONTRACTING AUTHORITY.—The Secretary may carry out the assessment under subsection (a) directly or, in whole or in part, through 1 or more contracts with qualified public or private entities.

(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare (in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate), and submit to Congress, a report describing the findings, conclusions, and recommendations resulting from the assessment.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 325. DENALI COMMISSION.

(a) DEFINITION OF COMMISSION.—In this section, the term ''Commission'' means the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note; Public Law 105–277).

(b) ENERGY PROGRAMS.—The Commission shall use amounts made available under subsection (d) to carry out energy programs, including—

(1) energy generation and development, including—

(A) fuel cells, hydroelectric, solar, wind, wave, and tidal energy; and

(B) alternative energy sources;

(2) the construction of energy transmission, including interties;

(3) the replacement and cleanup of fuel tanks;

(4) the construction of fuel transportation networks and related facilities;

(5) power cost equalization programs; and

(6) projects using coal as a fuel, including coal gasification projects.

(c) OPEN MEETINGS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a meeting of the Commission shall be open to the public if—

(A) the Commission members take action on behalf of the Commission; or

(B) the deliberations of the Commission determine, or result in the joint conduct or disposition of, official Commission business.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to any portion of a Commission meeting for which the Commission, in public session, votes to close the meeting for the reasons described in paragraph (2), (4), (5), or (6) of subsection (c) of section 552b of title 5, United States Code.

(3) PUBLIC NOTICE.—

(A) IN GENERAL.—At least 1 week before a meeting of the Commission, the Commission shall make a public announcement of the meeting that describes—

(i) the time, place, and subject matter of the meeting;

(ii) whether the meeting is to be open or closed to the public; and

(iii) the name and telephone number of an appropriate person to respond to requests for information about the meeting.

(B) ADDITIONAL NOTICE.—The Commission shall make a public announcement of any change to the information made available under subparagraph (A) at the earliest practicable time.

(4) MINUTES.—The Commission shall keep, and make available to the public, a transcript, electronic recording, or minutes from each Commission meeting, except for portions of the meeting closed under paragraph (2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Commission not more than $55,000,000 for each of fiscal years 2006 through 2015 to carry out subsection (b).

SEC. 326. COMPREHENSIVE INVENTORY OF OCS OIL AND NATURAL GAS RESOURCES.

(a) IN GENERAL.—The Secretary of the Interior shall conduct an inventory and analysis of oil and natural gas resources beneath all of the waters of the United States Outer Continental Shelf (''OCS''). The inventory and analysis shall—

(1) use available data on oil and gas resources in areas offshore of Mexico and Canada that will provide information on trends of oil and gas accumulation in areas of the OCS;

(2) use any available technology, except drilling, but including 3–D seismic technology to obtain accurate resource estimates;

(3) analyze how resource estimates in OCS areas have changed over time in regards to gathering geological and geophysical data, initial exploration, or full field development, including areas such as the deepwater and subsalt areas in the Gulf of Mexico;

(4) estimate the effect that understated oil and gas resource inventories have on domestic energy investments; and

(5) identify and explain how legislative, regulatory, and administrative programs or processes restrict or impede the development of identified resources and the extent that they affect domestic supply, such as moratoria, lease terms and conditions, operational stipulations and requirements, approval delays by the Federal government and coastal States, and local zoning restrictions for onshore processing facilities and pipeline landings.

(b) REPORTS.—The Secretary of Interior shall submit a report to Congress on the inventory of estimates and the analysis of restrictions or impediments, together with any recommendations, within 6 months of the date of enactment of the section. The report shall be publicly available and updated at least every 5 years.

SEC. 327. REVIEW AND DEMONSTRATION PROGRAM FOR OIL AND NATURAL GAS PRODUCTION.

(a) REVIEW.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Energy (referred to in this section as the ''Secretary''), shall carry out a review of, and submit to Congress a report on opportunities to enhance production of oil and natural gas from public land and the outer Continental Shelf, and increase sequestration of carbon dioxide through the provision of royalty or other production incentives to lessees that inject carbon dioxide as a means of enhanced recovery.

(2) COMPONENTS.—The Secretary of the Interior shall describe in the review and report under paragraph (1)—

(A) eligibility requirements for incentives;

(B) the appropriate level of royalty relief, if any;

(C) other appropriate production incentives, if any;

(D) an estimate of the increased quantity of oil and gas production that could be achieved through implementation of those incentives;

(E) an estimate of the quantity of carbon sequestration that could be achieved through implementation of those incentives;

(F) practices (and the extent of the use of the practices) as of the date of enactment of this Act that rely on carbon dioxide injection for enhanced oil and gas recovery; and

(G) any recommendations for implementation of royalty relief or other production incentives, including—

(i) the period of time during which those incentives should be available; and

(ii) any geographic or other limitations that should apply to the incentives.

(b) DEMONSTRATION PROGRAM.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The Secretary shall establish a competitive grant program to provide grants to producers of oil and gas to carry out projects to inject carbon dioxide for the purpose of enhancing recovery of oil or natural gas while increasing the sequestration of carbon dioxide.

(B) PROJECTS.—The demonstration program shall provide for—

(i) not more than 10 projects in the Willistin Basin in North Dakota and Montana; and

(ii) 1 project in the Cook Inlet Basin in Alaska.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary shall issue requirements relating to applications for grants under paragraph (1).

(B) RULEMAKING.—The issuance of requirements under subparagraph (A) shall not require a rulemaking.

(C) MINIMUM REQUIREMENTS.—At a minimum, the Secretary shall require under subparagraph (A) that an application for a grant include—

(i) a description of the project proposed in the application;

(ii) an estimate of the production increase and the duration of the production increase from the project, as compared to conventional recovery techniques, including water flooding;

(iii) an estimate of the carbon dioxide sequestered by project, over the life of the project;

(iv) a plan to collect and disseminate data relating to each project to be funded by the grant;

(v) a description of the means by which the project will be sustainable without Federal assistance after the completion of the term of the grant;

(vi) a complete description of the costs of the project, including acquisition, construction, operation, and maintenance costs over the expected life of the project;

(vii) a description of which costs of the project will be supported by Federal assistance under this section; and

(viii) a description of any secondary or tertiary recovery efforts in the field and the efficacy of water flood recovery techniques used.

(3) PARTNERS.—An applicant for a grant under paragraph (1) may carry out a project under a pilot program in partnership with 1 or more other public or private entities.

(4) SELECTION CRITERIA.—In evaluating applications under this subsection, the Secretary shall—

(A) consider the previous experience with similar projects of each applicant;

(B) give priority consideration to applications that—

(i) are most likely to maximize production of oil and gas in a cost-effective manner;

(ii) sequester significant quantities of carbon dioxide from anthropogenic sources;

(iii) demonstrate the greatest commitment on the part of the applicant to ensure funding for the proposed project and the greatest likelihood that the project will be maintained or expanded after Federal assistance under this section is completed; and

(iv) minimize any adverse environmental effects from the project.

(5) DEMONSTRATION PROGRAM REQUIREMENTS.—

(A) MAXIMUM AMOUNT.—The Secretary shall not provide more than $3,000,000 in Federal assistance under this subsection to any applicant.

(B) COST SHARING.—The Secretary shall require cost-sharing in accordance with section 1002.

(C) PERIOD OF GRANTS.—

(i) IN GENERAL.—A project funded by a grant under this subsection shall begin construction not later than 2 years after the date of provision of the grant, but in any case not later than December 31, 2010.

(ii) TERM.—The Secretary shall not provide grant funds to any applicant under this subsection for a period of more than 5 years.

(6) TRANSFER OF INFORMATION AND KNOWLEDGE.—The Secretary shall establish mechanisms to ensure that the information and knowledge gained by participants in the program under this subsection are transferred among other participants and interested parties, including other applicants that submitted applications for a grant under this subsection.

(7) SCHEDULE.—

(A) PUBLICATION.—Not later than 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register, and elsewhere, as appropriate, a request for applications to carry out projects under this subsection.

(B) DATE FOR APPLICATIONS.—An application for a grant under this subsection shall be submitted not later than 180 days after the date of publication of the request under subparagraph (A).

(C) SELECTION.—After the date by which applications for grants are required to be submitted under subparagraph (B), the Secretary, in a timely manner, shall select, after peer review and based on the criteria under paragraph (4), those projects to be awarded a grant under this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle C—Access to Federal Land

SEC. 341. FEDERAL ONSHORE OIL AND GAS LEASING PRACTICES.

(a) REVIEW OF ONSHORE OIL AND GAS LEASING PRACTICES.—The Secretary of the Interior shall make the necessary arrangements with the National Academy of Public Administration to commission the Academy to perform a review of Federal onshore oil and gas leasing practices. The Secretary of the Interior shall conduct an internal review concurrent with the work of the National Academy of Public Administration. The reviews shall include the following:

(1) The process by which Federal land managers accept or reject an offer to lease, including the timeframes in which such offers are acted upon, and any recommendations for improving and expediting the process.

(2) The process for considering applications for permits to drill, including the timeframes in which such applications are considered, and any recommendations for improving and expediting the process.

(3) The process for considering surface use plans of operation, including the timeframes in which such plans are considered, and any recommendations for improving and expediting the process.

(4) The process for administrative appeal of decisions or orders of officers or employees of the Bureau of Land Management with respect to a Federal oil or gas lease, including the timeframes in which such appeals are heard and decided, and any recommendations for improving and expediting the process.

(5) The process by which Federal land managers identify stipulations to address site-specific concerns and conditions, including those relating to the environment and resource use conflicts, whether stipulations are effective in addressing resource values, and any recommendations for expediting and improving the identification and effectiveness of stipulations.

(6) The process by which the Federal land management agencies coordinate planning and analysis with planning of Federal, State, and local agencies having jurisdiction over adjacent areas and other land uses, and any recommendations for improving and expediting the process.

(7) The documentation provided to lease applicants and lessees with respect to determinations to reject lease applications or to require modification of proposed surface use plans of operation and recommendations regarding improvement of such documentation to more clearly set forth the basis for the decision.

(8) The adequacy of resources available to the Secretary of the Interior for administering the Federal onshore oil and gas leasing program.

(9) Actions taken by the Secretary under section 3 of Executive Order No. 13212 (42 U.S.C. 13201 note).

(10) Actions taken by, or plans of, the Secretary to improve the Federal onshore oil and gas leasing program.

(b) REPORT.—The Secretary of the Interior and the National Academy of Public Administration shall report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate not later than 18 months after the date of the enactment of this Act, summarizing the findings of their respective reviews undertaken pursuant to this section and making recommendations with respect to improvements in the Federal onshore oil and gas leasing program.

SEC. 342. MANAGEMENT OF FEDERAL OIL AND GAS LEASING PROGRAMS.

(a) TIMELY ACTION ON LEASES AND PERMITS.—

(1) SECRETARY OF THE INTERIOR.—To ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall—

(A) ensure expeditious compliance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and any other applicable environmental and cultural resources laws;

(B) improve consultation and coordination with the States and the public; and

(C) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(2) SECRETARY OF AGRICULTURE.—To ensure timely action on oil and gas lease applications for permits to drill on land otherwise available for leasing, the Secretary of Agriculture shall—

(A) ensure expeditious compliance with all applicable environmental and cultural resources laws; and

(B) improve the collection, storage, and retrieval of information relating to the oil and gas leasing activities.

(b) BEST MANAGEMENT PRACTICES.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall develop and implement best management practices to—

(A) improve the administration of the onshore oil and gas leasing program under the Mineral Leasing Act (30 U.S.C. 181 et seq.); and

(B) ensure timely action on oil and gas leases and applications for permits to drill on land otherwise available for leasing.

(2) REGULATIONS.—Not later than 180 days after the development of the best management practices under paragraph (1), the Secretary shall publish, for public comment, proposed regulations that set forth specific timeframes for processing leases and applications in accordance with the best management practices, including deadlines for—

(A) approving or disapproving—

(i) resource management plans and related documents;

(ii) lease applications;

(iii) applications for permits to drill; and

(iv) surface use plans; and

(B) related administrative appeals.

(c) IMPROVED ENFORCEMENT.—The Secretary and the Secretary Agriculture shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill on land under the jurisdiction of the Secretary and the Secretary of Agriculture, respectively.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available to carry out activities relating to oil and gas leasing on public land administered by the Secretary and National Forest System land administered by the Secretary of Agriculture, there are authorized to be appropriated for each of fiscal years 2006 through 2010—

(1) to the Secretary, acting through the Director of the Bureau of Land Management—

(A) $40,000,000 to carry out subsections (a)(1) and (b); and

(B) $20,000,000 to carry out subsection (c);

(2) to the Secretary, acting through the Director of the United States Fish and Wildlife Service, $5,000,000 to carry out subsection (a)(1); and

(3) to the Secretary of Agriculture, acting through the Chief of the Forest Service, $5,000,000 to carry out subsections (a)(2) and (c).

SEC. 343. CONSULTATION REGARDING OIL AND GAS LEASING ON PUBLIC LAND.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior and the Secretary

of Agriculture shall enter into a memorandum of understanding regarding oil and gas leasing on—

(1) public land under the jurisdiction of the Secretary of the Interior; and

(2) National Forest System land under the jurisdiction of the Secretary of Agriculture.

(b) CONTENTS.—The memorandum of understanding shall include provisions that—

(1) establish administrative procedures and lines of authority that ensure timely processing of—

(A) oil and gas lease applications;

(B) surface use plans of operation, including steps for processing surface use plans; and

(C) applications for permits to drill, including applications for permits to drill consistent with applicable timelines;

(2) eliminate duplication of effort by providing for coordination of planning and environmental compliance efforts;

(3) ensure that lease stipulations are—

(A) applied consistently;

(B) coordinated between agencies; and

(C) only as restrictive as necessary to protect the resource for which the stipulations are applied;

(4) establish a joint data retrieval system that is capable of—

(A) tracking applications and formal requests made in accordance with procedures of the Federal onshore oil and gas leasing program; and

(B) providing information regarding the status of the applications and requests within the Department of the Interior and the Department of Agriculture; and

(5) establish a joint geographic information system mapping system for use in—

(A) tracking surface resource values to aid in resource management; and

(B) processing surface use plans of operation and applications for permits to drill.

SEC. 344. PILOT PROJECT TO IMPROVE FEDERAL PERMIT COORDINATION.

(a) ESTABLISHMENT.—The Secretary of the Interior (referred to in this section as the ''Secretary'') shall establish a Federal Permit Streamlining Pilot Project (referred to in this section as the ''Pilot Project'').

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into a memorandum of understanding for purposes of this section with—

(A) the Secretary of Agriculture;

(B) the Administrator of the Environmental Protection Agency; and

(C) the Chief of Engineers.

(2) STATE PARTICIPATION.—The Secretary may request that the Governors of Wyoming, Montana, Colorado, Utah, and New Mexico be signatories to the memorandum of understanding.

(c) DESIGNATION OF QUALIFIED STAFF.—

(1) IN GENERAL.—Not later than 30 days after the date of the signing of the memorandum of understanding under subsection (b), all Federal signatory parties shall, if appropriate, assign to each of the field offices identified in subsection (d) an employee who has expertise in the regulatory issues relating to the office in which the employee is employed, including, as applicable, particular expertise in—

(A) the consultations and the preparation of biological opinions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536);

(B) permits under section 404 of Federal Water Pollution Control Act (33 U.S.C. 1344);

(C) regulatory matters under the Clean Air Act (42 U.S.C. 7401 et seq.);

(D) planning under the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.); and

(E) the preparation of analyses under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) DUTIES.—Each employee assigned under paragraph (1) shall—

(A) not later than 90 days after the date of assignment, report to the Bureau of Land Management Field Managers in the office to which the employee is assigned;

(B) be responsible for all issues relating to the jurisdiction of the home office or agency of the employee; and

(C) participate as part of the team of personnel working on proposed energy projects, planning, and environmental analyses.

(d) FIELD OFFICES.—The following Bureau of Land Management Field Offices shall serve as the Pilot Project offices:

(1) Rawlins, Wyoming.

(2) Buffalo, Wyoming.

(3) Miles City, Montana

(4) Farmington, New Mexico.

(5) Carlsbad, New Mexico.

(6) Grand Junction/Glenwood Springs, Colorado.

(7) Vernal, Utah.

(e) REPORTS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) outlines the results of the Pilot Project to date; and

(2) makes a recommendation to the President regarding whether the Pilot Project should be implemented throughout the United States.

(f) ADDITIONAL PERSONNEL.—The Secretary shall assign to each field office identified in subsection (d) any additional personnel that are necessary to ensure the effective implementation of—

(1) the Pilot Project; and

(2) other programs administered by the field offices, including inspection and enforcement relating to energy development on Federal land, in accordance with the multiple use mandate of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq).

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section for each of fiscal years 2006 through 2010.

(2) TRANSFER OF FUNDS.—For the purposes of coordination and processing of oil and gas use authorizations on Federal land under the administration of the Pilot Project offices identified in subsection (d), the Secretary may authorize the expenditure or transfer of such funds as are necessary to—

(A) the United States Fish and Wildlife Service;

(B) the Bureau of Indian Affairs;

(C) the Forest Service;

(D) the Environmental Protection Agency;

(E) the Corps of Engineers; and

(F) the States of Wyoming, Montana, Colorado, Utah, and New Mexico.

(h) SAVINGS PROVISION.—Nothing in this section affects—

(1) the operation of any Federal or State law; or

(2) any delegation of authority made by the head of a Federal agency whose employees are participating in the Pilot Project.

SEC. 345. ENERGY FACILITY RIGHTS-OF-WAYS AND CORRIDORS ON FEDERAL LAND.

(a) DEFINITIONS.—In this section:

(1) CORRIDOR.—In this section and section 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1763), the term ''corridor'' means—

(A) a linear strip of land—

(i) with a width determined with consideration given to technological, environmental, and topographical factors; and

(ii) that contains, or may in the future contain, 1 or more utility facilities;

(B) a land use designation that is established—

(i) by law;

(ii) by order of the head of a Federal agency;

(iii) through the land use planning process; or

(iv) by other management decision; and

(C) a designation made for the purpose of establishing the preferred location of a compatible utility facility.

(2) FEDERAL AUTHORIZATION.—

(A) IN GENERAL.—The term ''Federal authorization'' means any authorization required under Federal law in order to site a utility facility.

(B) INCLUSIONS.—The term ''Federal authorization'' includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required, that are issued by a Federal agency.

(3) FEDERAL LAND.—

(A) IN GENERAL.—The term ''Federal land'' means all land owned by the United States.

(B) EXCLUSIONS.—The term ''Federal land'' does not include land—

(i) within the National Park System;

(ii) within the National Wilderness Preservation System;

(iii) designated as a National Monument;

(iv) held in trust for an Indian or Indian tribe; or

(v) on the outer Continental Shelf.

(4) UTILITY CORRIDOR.—The term ''utility corridor'' means any linear strip of land across Federal land referred to in subsection (b) of approved width, but limited for use by a utility facility by technological, environmental, or topographical factors.

(5) UTILITY FACILITY.—The term ''utility facility'' means any privately-, publicly-, or cooperatively-owned line, facility, or system—

(A) for the transportation of—

(i) oil or natural gas, synthetic liquid or gaseous fuel, or any refined product produced from any of those materials; or

(ii) products in support of production, or for storage or terminal facilities in connection with production; or

(B) for the generation, transmission, or distribution of electric energy.

(b) UTILITY CORRIDORS.—

(1) IN GENERAL.—Not later than 2 years after the document described in subsection (c)(3) is completed, the Secretary of the Interior, with respect to public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e)), and the Secretary of Agriculture, with respect to National Forest System land, shall designate utility corridors pursuant to—

(A) section 503 of the Federal Land Policy and Management Act (43 U.S.C. 1763) in the 11 contiguous Western States (as identified in section 103(o) of that Act (43 U.S.C. 1702(o))); and

(B) relevant departmental and agency land use and resource management plans or equivalent plans.

(2) COORDINATION.—The Secretary shall coordinate with affected Federal agencies to jointly—

(A) identify potential utility corridors on Federal land in States not described in paragraph (1)(A); and

(B) develop a schedule for the designation, environmental review, and incorporation of the utility corridors into relevant departmental and agency land use and resource management plans or equivalent plans.

(3) SPECIFICATIONS OF CORRIDOR.—A corridor designated under this section shall specify the centerline, width, and compatible uses of the corridor.

(c) FEDERAL PERMIT COORDINATION.—

(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with the Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense for the purpose of coordinating all applicable Federal authorizations and environmental reviews relating to a proposed or existing utility facility.

(2) ADDITIONAL ENTITIES.—To the maximum extent practicable under applicable law, the Secretary shall coordinate the process developed through the memorandum of understanding under paragraph (1) with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the affected utility facility to ensure timely review and permit decisions.

(3) CONTENTS OF MOU.—The memorandum of understanding under paragraph (1) shall provide for—

(A) coordination, among affected Federal agencies, to ensure that the necessary Federal authorizations—

(i) are conducted concurrently with applicable State siting processes; and

(ii) are considered within a specific time frame identified within the memorandum of understanding;

(B) an agreement among the affected Federal agencies to prepare a programmatic environmental review document to be used as the underlying basis for all Federal authorization decisions; and

(C) a process to expedite applications to construct or modify utility facilities within utility corridors.

SEC. 346. OIL SHALE LEASING.

(a) DECLARATION OF POLICY.—Congress declares that it is the policy of the United States that—

(1) United States oil shale and oil sands are strategically important domestic resources that should be developed through methods that help reduce the growing dependence of the United States on politically and economically unstable sources of foreign oil imports;

(2) the development of oil shale and oil sands, for research and commercial development, should be conducted in an environmentally sound and economically feasible manner; and

(3) development described in paragraph (2) should occur at a deliberate pace, with an emphasis on sustainability, to benefit the United States while taking into account affected States and communities.

(b) LEASING FOR RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—In accordance with section 21 of the Mineral Leasing Act (30 U.S.C. 241) and any other applicable law, except as provided in this section, not later than 1 year after the date of enactment of this Act, from land otherwise available for leasing, the Secretary of the Interior (referred to in this section as the ''Secretary'') shall, for a period determined by the Secretary, make available for leasing such land as the Secretary considers to be necessary to conduct research and development activities with respect to innovative technologies for the recovery of shale oil from oil shale resources on public land.

(2) APPLICATION.—The Secretary may offer to lease the land to persons that submit an application for the lease, if the Secretary determines that there is no competitive interest in the land.

(3) ADMINISTRATION.—In carrying out this subsection, the Secretary shall—

(A) provide for environmentally sound research and development of oil shale;

(B) provide for an appropriate return to the public, as determined by the Secretary;

(C) before carrying out any activity that will disturb the surface of land, provide for an adequate bond, surety, or other financial arrangement to ensure reclamation;

(D) provide for a primary lease term of 10 years, after which the lease term may be extended if the Secretary determines that diligent research and development activities are occurring on the land leased;

(E) require the owner or operator of a project under this subsection, within such period as the Secretary may determine—

(i) to submit a plan of operations;

(ii) to develop an environmental protection plan; and

(iii) to undertake diligent research and development activities;

(F) ensure that leases under this section are not larger than necessary to conduct research and development activities under an application under paragraph (2);

(G) provide for consultation with affected State and local governments; and

(H) provide for such requirements as the Secretary determines to be in the public interest.

(4) MONEYS RECEIVED.—Any moneys received from a leasing activity under this subsection shall be paid in accordance with section 35 of the Mineral Leasing Act (30 U.S.C. 191).

(c) PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENT.—Not later than 18 months after the date of enactment of this Act, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), the Secretary shall complete a programmatic environmental impact statement that analyzes potential leasing for commercial development of oil shale resources on public land.

(d) ANALYSIS OF POTENTIAL LEASING PROGRAM.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report (including recommendations) analyzing a potential leasing program for the commercial development of oil shale on public land.

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) an analysis of technologies and research and development programs for the production of oil and other materials from oil shale and tar sands in existence on the date on which the report is prepared;

(B) an analysis of—

(i) whether leases under the program should be issued on a competitive basis;

(ii) the term of the leases;

(iii) the maximum size of the leases;

(iv) the use and distribution of bonus bid lease payments;

(v) the royalty rate to be applied, including whether a sliding scale royalty rate should be used;

(vi) whether an opportunity should be provided to convert research and development leases into leases for commercial development, including the terms and conditions that should apply to the conversion;

(vii) the maximum number of leases and maximum acreage to be leased under the leasing program to an individual; and

(vii) any infrastructure required to support oil shale development in industry and communities; and

(C) an analysis, developed in conjunction with the appropriate State water resource agencies, of the demand for, and availability of, water with respect to the development of oil shale.

(3) PUBLIC PARTICIPATION.—In preparing the report under this subsection, the Secretary shall provide notice to, and solicit comment from—

(A) the public;

(B) representatives of local governments;

(C) representatives of industry; and

(D) other interested parties.

(4) PARTICIPATION BY CERTAIN STATES.—In preparing the report under this subsection, the Secretary shall—

(A) provide notice to, and solicit comment from, the Governors of the States of Colorado, Utah, and Wyoming; and

(B) incorporate into the report submitted to Congress under paragraph (1) any response of the Secretary to those comments.

(e) NATIONAL OIL SHALE ASSESSMENT.—

(1) ASSESSMENT.—

(A) IN GENERAL.—The Secretary shall carry out a national assessment of oil shale resources for the purposes of evaluating and mapping oil shale deposits, in the geographic areas described in subparagraph (B).

(B) GEOGRAPHIC AREAS.—The geographic areas referred to in subparagraph (A), listed in the order in which the Secretary shall assign priority, are—

(i) the Green River Region of the States of Colorado, Utah, and Wyoming;

(ii) the Devonian oil shales of the eastern United States; and

(iii) any remaining area in the central and western United States (including the State of Alaska) that contains oil shale, as determined by the Secretary.

(2) USE OF STATE SURVEYS AND UNIVERSITIES.—In carrying out the assessment under paragraph (1), the Secretary may request assistance from any State-administered geological survey or university.

(f) STATE WATER RIGHTS.—Nothing in this section preempts or affects any State water law or interstate compact relating to water.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle D—Coastal Programs

SEC. 371. COASTAL IMPACT ASSISTANCE PROGRAM.

Section 31 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a) is amended to read as follows:

''SEC. 31. COASTAL IMPACT ASSISTANCE PROGRAM.

''(a) DEFINITIONS.—In this section:

''(1) COASTAL POLITICAL SUBDIVISION.—The term 'coastal political subdivision' means a political subdivision of a coastal State any part of which political subdivision is—

''(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the coastal State; and

''(B) not more than 200 miles from the geographic center of any leased tract.

''(2) COASTAL POPULATION.—The term 'coastal population' means the population, as determined by the most recent official data of the Census Bureau, of each political subdivision any part of which lies within the designated coastal boundary of a State (as defined in a State's coastal zone management program under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)).

''(3) COASTAL STATE.—The term 'coastal State' has the meaning given the term in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453).

''(4) COASTLINE.—The term 'coastline' has the meaning given the term 'coast line' in section 2 of the Submerged Lands Act (43 U.S.C. 1301).

''(5) DISTANCE.—The term 'distance' means the minimum great circle distance, measured in statute miles.

''(6) LEASED TRACT.—The term 'leased tract' means a tract that is subject to a lease under section 6 or 8 for the purpose of drilling for, developing, and producing oil or natural gas resources.

''(7) LEASING MORATORIA.—The term 'leasing moratoria' means the prohibitions on

preleasing, leasing, and related activities on any geographic area of the outer Continental Shelf as contained in sections 107 through 109 of division E of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3063).

''(8) POLITICAL SUBDIVISION.—The term 'political subdivision' means the local political jurisdiction immediately below the level of State government, including counties, parishes, and boroughs.

''(9) PRODUCING STATE.—

''(A) IN GENERAL.—The term 'producing State' means a coastal State that has a coastal seaward boundary within 200 miles of the geographic center of a leased tract within any area of the outer Continental Shelf.

''(B) EXCLUSION.—The term 'producing State' does not include a producing State, a majority of the coastline of which is subject to leasing moratoria.

''(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

''(A) IN GENERAL.—The term 'qualified Outer Continental Shelf revenues' means all amounts received by the United States from each leased tract or portion of a leased tract—

''(i) lying—

''(I) seaward of the zone covered by section 8(g); or

''(II) within that zone, but to which section 8(g) does not apply; and

''(ii) the geographic center of which lies within a distance of 200 miles from any part of the coastline of any coastal State.

''(B) INCLUSIONS.—The term 'qualified Outer Continental Shelf revenues' includes bonus bids, rents, royalties (including payments for royalty taken in kind and sold), net profit share payments, and related late-payment interest from natural gas and oil leases issued under this Act.

''(C) EXCLUSION.—The term 'qualified Outer Continental Shelf revenues' does not include any revenues from a leased tract or portion of a leased tract that is located in a geographic area subject to a leasing moratorium on January 1, 2005.

''(b) PAYMENTS TO PRODUCING STATES AND COASTAL POLITICAL SUBDIVISIONS.—

''(1) IN GENERAL.—From revenues deposited under section 9, there is authorized to be appropriated to the Secretary to disburse funds to producing States and coastal political subdivisions in accordance with this section $500,000,000 for each of fiscal years 2006 through 2010.

''(2) DISBURSEMENT.—In each fiscal year, the Secretary shall, subject to appropriations, disburse to each producing State for which the Secretary has approved a plan under subsection (c), and to coastal political subdivisions under paragraph (5), such funds as are allocated to the producing State or coastal political subdivision, respectively, under this section for the fiscal year.

''(3) TRANSFER OF AMOUNTS.—

''(A) IN GENERAL.—From qualified outer Continental Shelf revenues deposited in the Treasury under this Act for a fiscal year, subject to appropriations, the Secretary of the Treasury shall transfer to the Secretary to provide disbursements to producing States and coastal political subdivisions under this section $500,000,000 for each of fiscal years 2006 through 2010.

''(B) DISBURSEMENT.—For each fiscal year, the Secretary shall, subject to the availability of appropriations under subparagraph (A), disburse to each producing State for which the Secretary has an approved plan under paragraph (4), and to coastal political subdivisions under paragraph (5), the funds allocated to the producing State or coastal political subdivision under this section for the fiscal year.

''(4) ALLOCATION AMONG PRODUCING STATES.—

''(A) IN GENERAL.—Except as provided in subparagraph (C) and subject to subparagraph (D), the amounts available under paragraph (1) shall be allocated to each producing State based on the ratio that—

''(i) the amount of qualified outer Continental Shelf revenues generated off the coastline of the producing State; bears to

''(ii) the amount of qualified outer Continental Shelf revenues generated off the coastline of all producing States.

''(B) AMOUNT OF OUTER CONTINENTAL SHELF REVENUES.—For purposes of subparagraph (A)—

''(i) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2006 through 2008 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2005; and

''(ii) the amount of qualified outer Continental Shelf revenues for each of fiscal years 2009 through 2011 shall be determined using qualified outer Continental Shelf revenues received for fiscal year 2008.

''(C) MULTIPLE PRODUCING STATES.—In a case in which more than 1 producing State is located within 200 miles of any portion of a leased tract, the amount allocated to each producing State for the leased tract shall be inversely proportional to the distance between—

''(i) the nearest point on the coastline of the producing State; and

''(ii) the geographic center of the leased tract.

''(D) MINIMUM ALLOCATION.—The amount allocated to a producing State under subparagraph (A) shall be at least 1 percent of the amounts available under paragraph (1).

''(5) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

''(A) IN GENERAL.—The Secretary shall pay 35 percent of the amount allocated under paragraph (3) to the coastal political subdivisions in the producing State.

''(B) FORMULA.—Of the amount paid by the Secretary to coastal political subdivisions under subparagraph (A)—

''(i) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the coastal population of the coastal political subdivision; bears to

''(II) the coastal population of all coastal political subdivisions in the producing State;

''(ii) 25 percent shall be allocated to each coastal political subdivision in the proportion that—

''(I) the number of miles of coastline of the coastal political subdivision; bears to

''(II) the number of miles of coastline of all coastal political subdivisions in the producing State; and

''(iii) 50 percent shall be allocated in amounts that are inversely proportional to the respective distances between the points in each coastal political subdivision that are closest to the geographic center of each leased tract, as determined by the Secretary.

''(C) EXCEPTION FOR THE STATE OF LOUISIANA.—For the purposes of subparagraph (B)(ii), the coastline for coastal political subdivisions in the State of Louisiana without a coastline shall be the average length of the coastline of all coastal political subdivisions with a coastline in the State of Louisiana.

''(D) EXCEPTION FOR THE STATE OF ALASKA.—For the purposes of carrying out subparagraph (B)(iii) in the State of Alaska, the amounts allocated shall be divided equally among the 2 coastal political subdivisions that are closest to the geographic center of a leased tract.

''(E) EXCLUSION OF CERTAIN LEASED TRACTS.—For purposes of subparagraph (B)(iii), a leased tract or portion of a leased tract shall be excluded if the tract or portion of a leased tract is located in a geographic area subject to a leasing moratorium on January 1, 2005.

''(6) NO APPROVED PLAN.—

''(A) IN GENERAL.—Subject to subparagraph (B) and except as provided in subparagraph (C), in a case in which any amount allocated to a producing State or coastal political subdivision under paragraph (4) or (5) is not disbursed because the producing State does not have in effect a plan that has been approved by the Secretary under subsection (c), the Secretary shall allocate the undisbursed amount equally among all other producing States.

''(B) RETENTION OF ALLOCATION.—The Secretary shall hold in escrow an undisbursed amount described in subparagraph (A) until such date as the final appeal regarding the disapproval of a plan submitted under subsection (c) is decided.

''(C) WAIVER.—The Secretary may waive subparagraph (A) with respect to an allocated share of a producing State and hold the allocable share in escrow if the Secretary determines that the producing State is making a good faith effort to develop and submit, or update, a plan in accordance with subsection (c).

''(c) COASTAL IMPACT ASSISTANCE PLAN.—

''(1) SUBMISSION OF STATE PLANS.—

''(A) IN GENERAL.—Not later than July 1, 2008, the Governor of a producing State shall submit to the Secretary a coastal impact assistance plan.

''(B) PUBLIC PARTICIPATION.—In carrying out subparagraph (A), the Governor shall solicit local input and provide for public participation in the development of the plan.

''(2) APPROVAL.—

''(A) IN GENERAL.—The Secretary shall approve a plan of a producing State submitted under paragraph (1) before disbursing any amount to the producing State, or to a coastal political subdivision located in the producing State, under this section.

''(B) COMPONENTS.—The Secretary shall approve a plan submitted under paragraph (1) if—

''(i) the Secretary determines that the plan is consistent with the uses described in subsection (d); and

''(ii) the plan contains—

''(I) the name of the State agency that will have the authority to represent and act on behalf of the producing State in dealing with the Secretary for purposes of this section;

''(II) a program for the implementation of the plan that describes how the amounts provided under this section to the producing State will be used;

''(III) for each coastal political subdivision that receives an amount under this section—

''(aa) the name of a contact person; and

''(bb) a description of how the coastal political subdivision will use amounts provided under this section;

''(IV) a certification by the Governor that ample opportunity has been provided for public participation in the development and revision of the plan; and

''(V) a description of measures that will be taken to determine the availability of assistance from other relevant Federal resources and programs.

''(3) AMENDMENT.—Any amendment to a plan submitted under paragraph (1) shall be—

''(A) developed in accordance with this subsection; and

''(B) submitted to the Secretary for approval or disapproval under paragraph (4).

''(4) PROCEDURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 90 days after the date on which a plan or amendment to a plan is submitted under paragraph (1) or

(3), the Secretary shall approve or disapprove the plan or amendment.

''(B) EXCEPTION.—For fiscal year 2006, the Secretary shall approve or disapprove a plan submitted under paragraph (1) not later than December 31, 2006.

''(d) AUTHORIZED USES.—

''(1) IN GENERAL.—A producing State or coastal political subdivision shall use all amounts received under this section, including any amount deposited in a trust fund that is administered by the State or coastal political subdivision and dedicated to uses consistent with this section, in accordance with all applicable Federal and State law, only for 1 or more of the following purposes:

''(A) Projects and activities for the conservation, protection, or restoration of coastal areas, including wetland.

''(B) Mitigation of damage to fish, wildlife, or natural resources.

''(C) Planning assistance and the administrative costs of complying with this section.

''(D) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

''(E) Mitigation of the impact of outer Continental Shelf activities through funding of onshore infrastructure projects and public service needs.

''(2) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by a producing State or coastal political subdivision is not consistent with this subsection, the Secretary shall not disburse any additional amount under this section to the producing State or the coastal political subdivision until such time as all amounts obligated for unauthorized uses have been repaid or reobligated for authorized uses.''.

Subtitle E—Natural Gas

SEC. 381. EXPORTATION OR IMPORTATION OF NATURAL GAS.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by adding at the end the following:

''(d) Except as specifically provided in this part, nothing in this Act affects the rights of States under—

''(1) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)

''(2) the Clean Air Act (42 U.S.C. 7401 et seq.); or

''(3) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

''(e)(1) No facilities located onshore or in State waters for the import of natural gas from a foreign country, or the export of natural gas to a foreign country, shall be sited, constructed, expanded, or operated, unless the Commission has authorized such acts or operations.

''(2) The Commission shall have the exclusive authority to approve or deny an application for the siting, construction, expansion, or operation of facilities located onshore or in State waters for the import of natural gas from a foreign county or the export of natural gas to a foreign country.

''(3)(A) Except as provided in subparagraph (B), the Commission may approve an application described in paragraph (2), in whole or part, with such modifications and upon such terms and conditions as the Commission finds appropriate.

''(B) The Commission shall not—

''(i) deny an application solely on the basis that the applicant proposes to use the liquefied natural gas import facility exclusively or partially for gas that the applicant or an affiliate of the applicant will supply to the facility; or

''(ii) condition an order on—

''(I) a requirement that the liquefied natural gas import facility offer service to customers other than the applicant, or any affiliate of the applicant, securing the order;

''(II) any regulation of the rates, charges, terms, or conditions of service of the liquefied natural gas import facility; or

''(III) a requirement to file with the Commission schedules or contracts related to the rates, charges, terms, or conditions of service of the liquefied natural gas import facility.

''(4) An order issued for a liquefied natural gas import facility that also offers service to customers on an open access basis shall not result in subsidization of expansion capacity by existing customers, degradation of service to existing customers, or undue discrimination against existing customers as to their terms or conditions of service at the facility, as all of those terms are defined by the Commission.''.

SEC. 382. NEW NATURAL GAS STORAGE FACILITIES.

Section 4 of the Natural Gas Act (15 U.S.C. 717c) is amended by adding at the end the following:

''(f)(1) In exercising its authority under this Act or the Natural Gas Policy Act of 1978 (15 U.S.C. 3301 et seq.), the Commission may authorize a natural gas company (or any person that will be a natural gas company on completion of any proposed construction) to provide storage and storage-related services at market-based rates for new storage capacity placed in service after the date of enactment of the Energy Policy Act of 2005, notwithstanding the fact that the company is unable to demonstrate that the company lacks market power, if the Commission determines that—

''(A) market-based rates are in the public interest and necessary to encourage the construction of storage capacity in areas needing storage services; and

''(B) customers are adequately protected.

''(2) The Commission shall ensure that reasonable terms and conditions are in place to protect consumers.

''(3) If the Commission authorizes a natural gas company to charge market-based rates under this subsection, the Commission shall review periodically (but not more frequently than triennially) whether the market-based rate is just, reasonable, and not unduly discriminatory or preferential.''.

SEC. 383. PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURES.

Section 15 of the Natural Gas Act (15 U.S.C. 717n) is amended—

(1) by striking the section heading and inserting the following:

''PROCESS COORDINATION; HEARINGS; RULES OF PROCEDURE'';

(2) by redesignating subsections (a) and (b) as subsections (e) and (f), respectively;

(3) by striking ''SEC. 15.'' and inserting the following:

''SEC. 15. (a) In this section, the term 'Federal authorization'—

''(1) means any authorization required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7; and

''(2) includes any permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

''(b)(1) With respect to an application for Federal authorization, the Commission shall, unless the Commission orders otherwise, be the lead agency for purposes of complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) As lead agency, the Commission, in consultation with affected agencies, shall prepare a single environmental review document, which shall be used as a basis for all decisions under Federal law on—

''(A) an application for authorization under section 3; or

''(B) a certificate of public convenience and necessity under section 7.

''(c)(1) The Commission shall, in consultation with agencies responsible for Federal authorizations, and with due consideration of recommendations by the agencies, establish a schedule for all Federal authorizations required to be completed before an application under section 3 or 7 may be approved.

''(2) In establishing a schedule, the Commission shall comply with applicable schedules established by Federal law.

''(3) All Federal and State agencies with jurisdiction over natural gas infrastructure shall seek to coordinate their proceedings within the timeframes established by the Commission with respect to an application for authorization under section 3 or a certificate of public convenience and necessity under section 7.

''(d)(1) In a case in which an administrative agency or officer has failed to act by the deadline established by the Commission under this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, take action on the pending application.

''(2) Based on the overall record and in consultation with the affected agency, the President may—

''(A) issue the necessary authorization with any appropriate conditions; or

''(B) deny the application.

''(3) Not later than 90 days after the filing of an appeal, the President shall issue a decision as to that appeal.

''(4) In making a decision under this subsection, the President shall comply with applicable requirements of Federal law, including—

''(A) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.)

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

''(C) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

''(D) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

''(E) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

''(F) the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); and

''(G) the Clean Air Act (42 U.S.C. 7401 et seq.).''.

SEC. 384. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) NATURAL GAS ACT.—Section 21 of the Natural Gas Act (15 U.S.C. 717t) is amended—

(A) in subsection (a)—

(i) by striking ''$5,000'' and inserting ''$1,000,000''; and–

(ii) by striking ''two years'' and inserting ''5 years''; and

(B) in subsection (b), by striking ''$500'' and inserting ''$50,000''.

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(c)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''$5,000'' and inserting ''$1,000,000'';

(ii) in subparagraph (B), by striking ''two years'' and inserting ''5 years''; and

(B) in paragraph (2), by striking ''$500 for each violation'' and inserting ''$50,000 for each day on which the offense occurs''.

(b) CIVIL PENALTIES.—

(1) NATURAL GAS ACT.—The Natural Gas Act (15 U.S.C. 717 et seq.) is amended—

(A) by redesignating sections 22 through 24 as sections 24 through 26, respectively; and

(B) by inserting after section 21 (15 U.S.C. 717t) the following:

''CIVIL PENALTY AUTHORITY

''SEC. 22. (a) Any person that violates this Act, or any rule, regulation, restriction, condition, or order made or imposed by the Commission under authority of this Act, shall be subject to a civil penalty of not more than $1,000,000 per day per violation for as long as the violation continues.

''(b) The penalty shall be assessed by the Commission after notice and opportunity for public hearing.

''(c) In determining the amount of a proposed penalty, the Commission shall take into consideration the nature and seriousness of the violation and the efforts to remedy the violation.''.

(2) NATURAL GAS POLICY ACT OF 1978.—Section 504(b)(6)(A) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3414(b)(6)(A)) is amended—

(A) in clause (i), by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) in clause (ii), by striking ''$25,000'' and inserting ''$1,000,000''.

SEC. 385. MARKET MANIPULATION.

The Natural Gas Act is amended by inserting after section 4 (15 U.S.C. 717c) the following:

''PROHIBITION ON MARKET MANIPULATION

''SEC. 4A. It shall be unlawful for any entity, directly or indirectly, to use or employ, in connection with the purchase or sale of natural gas or the purchase or sale of transportation services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b)) in contravention of such rules and regulations as the Commission may prescribe as necessary in the public interest or for the protection of natural gas ratepayers.''

SEC. 386. NATURAL GAS MARKET TRANSPARENCY RULES.

The Natural Gas Act (15 U.S.C. 717 et seq.) (as amended by section 385(b)(1)) is amended by inserting after section 22 the following:

''NATURAL GAS MARKET TRANSPARENCY RULES

''SEC. 23. (a)(1) The Commission may issue such rules as the Commission considers to be appropriate to establish an electronic information system to provide the Commission and the public with access to such information as is necessary to facilitate price transparency and participation in markets for the sale or transportation of natural gas in interstate commerce.

''(2) The system under paragraph (1) shall provide, on a timely basis, information about the availability and prices of natural gas sold at wholesale and in interstate commerce to the Commission, State commissions, buyers and sellers of wholesale natural gas, and the public.

''(3) The Commission may—

''(A) obtain information described in paragraph (2) from any market participant; and

''(B) rely on an entity other than the Commission to receive and make public the information.

''(b)(1) Rules described in subsection (a)(1), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

''(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c)(1) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

''(2) Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving accounts, agreements, contracts, or transactions in commodities (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.

''(d) In carrying out this section, the Commission shall not—

''(1) compete with, or displace from the market place, any price publisher (including any electronic price publisher);

''(2) regulate price publishers (including any electronic price publisher); or

''(3) impose any requirements on the publication of information by price publishers (including any electronic price publisher).

''(e)(1) The Commission shall not condition access to interstate pipeline transportation on the reporting requirements of this section.

''(2) The Commission shall not require natural gas producers, processors, or users who have a de minimis market presence to comply with the reporting requirements of this section.

''(f)(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 22(b).

''(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that has entered into a contract for the transportation or sale of natural gas subject to the jurisdiction of the Commission has engaged in fraudulent market manipulation activities materially affecting the contract in violation of section 4A.''.

SEC. 387. DEADLINE FOR DECISION ON APPEALS OF CONSISTENCY DETERMINATION UNDER THE COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) IN GENERAL.—Section 319 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1465) is amended to read as follows:

''APPEALS TO THE SECRETARY

''SEC. 319. (a) NOTICE.—Not later than 30 days after the date of the filing of an appeal to the Secretary of a consistency determination under section 307, the Secretary shall publish an initial notice in the Federal Register.

''(b) CLOSURE OF RECORD.—

''(1) IN GENERAL.—Not later than the end of the 270-day period beginning on the date of publication of an initial notice under subsection (a), except as provided in paragraph (3), the Secretary shall immediately close the decision record and receive no more filings on the appeal.

''(2) NOTICE.—After closing the administrative record, the Secretary shall immediately publish a notice in the Federal Register that the administrative record has been closed.

''(3) EXCEPTION.—

''(A) IN GENERAL.—Subject to subparagraph (B), during the 270-day period described in paragraph (1), the Secretary may stay the closing of the decision record—

''(i) for a specific period mutually agreed to in writing by the appellant and the State agency; or

''(ii) as the Secretary determines necessary to receive, on an expedited basis—

''(I) any supplemental information specifically requested by the Secretary to complete a consistency review under this Act; or

''(II) any clarifying information submitted by a party to the proceeding related to information already existing in the sole record.

''(B) APPLICABILITY.—The Secretary may only stay the 270-day period described in paragraph (1) for a period not to exceed 60 days.

''(c) DEADLINE FOR DECISION.—

''(1) IN GENERAL.—Not later than 90 days after the date of publication of a Federal Register notice stating when the decision record for an appeal has been closed, the Secretary shall issue a decision or publish a notice in the Federal Register explaining why a decision cannot be issued at that time.

''(2) SUBSEQUENT DECISION.—Not later than 45 days after the date of publication of a Federal Register notice explaining why a decision cannot be issued within the 90-day period, the Secretary shall issue a decision.''.

SEC. 388. FEDERAL-STATE LIQUEFIED NATURAL GAS FORUMS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in cooperation and consultation with the Secretary of Transportation, the Secretary of Homeland Security, the Federal Energy Regulatory Commission, and the Governors of the Coastal States, shall convene not less than 3 forums on liquefied natural gas.

(b) REQUIREMENTS.—The forums shall—

(1) be located in areas where liquefied natural gas facilities are under consideration;

(2) be designed to foster dialogue among Federal officials, State and local officials, the general public, independent experts, and industry representatives; and

(3) at a minimum, provide an opportunity for public education and dialogue on—

(A) the role of liquefied natural gas in meeting current and future United States energy supply requirements and demand, in the context of the full range of energy supply options;

(B) the Federal and State siting and permitting processes;

(C) the potential risks and rewards associated with importing liquefied natural gas;

(D) the Federal safety and environmental requirements (including regulations) applicable to liquefied natural gas;

(E) prevention, mitigation, and response strategies for liquefied natural gas hazards; and

(F) additional issues as appropriate.

(c) PURPOSE.—The purpose of the forums shall be to identify and develop best practices for addressing the issues and challenges associated with liquefied natural gas imports, building on existing cooperative efforts.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 389. PROHIBITION OF TRADING AND SERVING BY CERTAIN PERSONS.

Section 20 of the Natural Gas Act (15 U.S.C. 717s) is amended by adding at the end the following:

''(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any person who is engaged or has engaged in practices constituting a violation of section 4A (including related rules and regulations) from—

''(1) acting as an officer or director of a natural gas company; or

''(2) engaging in the business of—

''(A) the purchasing or selling of natural gas; or

''(B) the purchasing or selling of transmission services subject to the jurisdiction of the Commission.''.

Subtitle F—Federal Coalbed Methane Regulation

SEC. 391. FEDERAL COALBED METHANE REGULATION.

Any State that, as of the date of enactment of this Act, is included on the list of affected States established under section 1339(b) of the Energy Policy Act of 1992 (42 U.S.C. 13368(b)) shall be removed from the list if, not later than 3 years after the date of enactment of this Act, the State takes, or prior to that date of enactment, has taken, any of the actions required for removal from the list under that section.

TITLE IV—COAL

Subtitle A—Clean Coal Power Initiative

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) CLEAN COAL POWER INITIATIVE.—There is authorized to be appropriated to the Secretary to carry out the activities authorized by this subtitle $200,000,000 for each of fiscal years 2006 through 2014, to remain available until expended.

(b) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report that includes an 8-year plan containing—

(1) a detailed assessment of whether the aggregate assistance levels provided under subsection (a) are the appropriate assistance levels for the clean coal power initiative;

(2) a detailed description of how proposals for assistance under the clean coal power initiative will be solicited and evaluated, including a list of all activities expected to be undertaken;

(3) a detailed list of technical milestones for each coal and related technology that will be pursued under the clean coal power initiative; and

(4) a detailed description of how the clean coal power initiative will avoid problems enumerated in Government Accountability Office reports on the Clean Coal Technology Program of the Department, including problems that have resulted in unspent funds and projects that failed either financially or scientifically.

SEC. 402. PROJECT CRITERIA.

(a) IN GENERAL.—To be eligible to receive assistance under this subtitle, a project shall advance efficiency, environmental performance, and cost competitiveness well beyond the level of technologies that are in commercial service or have been demonstrated on a scale that the Secretary determines is sufficient to demonstrate that commercial service is viable as of the date of enactment of this Act.

(b) TECHNICAL CRITERIA FOR CLEAN COAL POWER INITIATIVE.—

(1) GASIFICATION PROJECTS.—

(A) IN GENERAL.—In allocating the funds made available under section 401(a), the Secretary shall ensure that at least 80 percent of the funds are used only to fund projects on coal-based gasification technologies, including—

(i) gasification combined cycle;

(ii) gasification fuel cells;

(iii) gasification coproduction; and

(iv) hybrid gasification or combustion.

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically set technical milestones specifying the emission and thermal efficiency levels that coal gasification projects under this subtitle shall be designed, and reasonably expected, to achieve.

(II) RESTRICTIVE MILESTONES.—The technical milestones shall become more restrictive during the period of the clean coal power initiative.

(ii) 2020 GOALS.—The Secretary shall establish the periodic milestones so as to achieve by the year 2020 coal gasification projects able—

(I) to remove at least 99 percent of sulfur dioxide;

(II) to emit not more than .05 lbs of NO_x per million Btu;

(III) to achieve substantial reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 60 percent for coal of more than 9,000 Btu;

(bb) 59 percent for coal of 7,000 to 9,000 Btu; and

(cc) 50 percent for coal of less than 7,000 Btu.

(2) OTHER PROJECTS.—

(A) ALLOCATION OF FUNDS.—The Secretary shall ensure that up to 20 percent of the funds made available under section 401(a) are used to fund projects other than those described in paragraph (1).

(B) TECHNICAL MILESTONES.—

(i) PERIODIC DETERMINATION.—

(I) IN GENERAL.—The Secretary shall periodically establish technical milestones specifying the emission and thermal efficiency levels that projects funded under this paragraph shall be designed, and reasonably expected, to achieve.

(II) RESTRICTIVE MILESTONES.—The technical milestones shall become more restrictive during the period of the clean coal power initiative.

(ii) 2010 GOALS.—The Secretary shall set the periodic milestones so as to achieve by the year 2010 projects able—

(I) to remove at least 97 percent of sulfur dioxide;

(II) to emit no more than .08 lbs of NO_x per million Btu;

(III) to achieve substantial reductions in mercury emissions; and

(IV) to achieve a thermal efficiency of at least—

(aa) 45 percent for coal of more than 9,000 Btu;

(bb) 44 percent for coal of 7,000 to 9,000 Btu; and

(cc) 40 percent for coal of less than 7,000 Btu.

(3) CONSULTATION.—Before setting the technical milestones under paragraphs (1)(B) and (2)(B), the Secretary shall consult with—

(A) the Administrator of the Environmental Protection Agency; and

(B) interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal or advanced coal technologies;

(iv) environmental organizations; and

(v) organizations representing workers.

(4) EXISTING UNITS.—In the case of projects at units in existence on the date of enactment of this Act, in lieu of the thermal efficiency requirements described in paragraphs (1)(B)(ii)(IV) and (2)(B)(ii)(IV), the milestones shall be designed to achieve an overall thermal design efficiency improvement, compared to the efficiency of the unit as operated, of not less than—

(A) 7 percent for coal of more than 9,000 Btu;

(B) 6 percent for coal of 7,000 to 9,000 Btu; or

(C) 4 percent for coal of less than 7,000 Btu.

(5) ADMINISTRATION.—

(A) ELEVATION OF SITE.—In evaluating project proposals to achieve thermal efficiency levels established under paragraphs (1)(B)(i) and (2)(B)(i) and in determining progress towards thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4), the Secretary shall take into account and make adjustments for the elevation of the site at which a project is proposed to be constructed.

(B) APPLICABILITY OF MILESTONES.—The thermal efficiency milestones under paragraphs (1)(B)(ii)(IV), (2)(B)(ii)(IV), and (4) shall not apply to projects that separate and capture at least 50 percent of the potential emissions of carbon dioxide by a facility.

(C) PRIORITY.—In carrying out this subtitle, the Secretary shall give priority to projects that include, as part of the project, the separation and capture of carbon dioxide.

(c) FINANCIAL CRITERIA.—The Secretary shall not provide financial assistance under this subtitle for a project unless the recipient documents to the satisfaction of the Secretary that—

(1) the receipt of Federal assistance for the project is not required for the recipient to be financially viable;

(2) the recipient will provide sufficient information to the Secretary to enable the Secretary to ensure that the funds are spent efficiently and effectively; and

(3) a market exists for the technology being demonstrated or applied, as evidenced by statements of interest in writing from potential purchasers of the technology.

(d) FINANCIAL ASSISTANCE.—The Secretary shall provide financial assistance to projects that, as determined by the Secretary—

(1) meet the requirements of subsections (a), (b), and (c); and

(2) are likely—

(A) to achieve overall cost reductions in the use of coal to generate useful forms of energy;

(B) to improve the competitiveness of coal among various forms of energy in order to maintain a diversity of fuel choices in the United States to meet electricity generation requirements; and

(C) to demonstrate methods and equipment that are applicable to 25 percent of the electricity generating facilities, using various types of coal, that use coal as the primary feedstock as of the date of enactment of this Act.

(e) COST-SHARING.—In carrying out this subtitle, the Secretary shall require cost sharing in accordance with section 1002.

(f) APPLICABILITY.—No technology, or level of emission reduction, solely by reason of the use of the technology, or the achievement of the emission reduction, by 1 or more facilities receiving assistance under this Act, shall be considered to be—

(1) adequately demonstrated for purposes of section 111 of the Clean Air Act (42 U.S.C. 7411);

(2) achievable for purposes of section 169 of that Act (42 U.S.C. 7479); or

(3) achievable in practice for purposes of section 171 of that Act (42 U.S.C. 7501).

SEC. 403. REPORT.

Not later than 1 year after the date of enactment of this Act, and once every 2 years thereafter through 2012, the Secretary, in consultation with other appropriate Federal agencies, shall submit to Congress a report describing—

(1)(A) the technical milestones described in section 402; and

(B) how those milestones ensure progress toward meeting the requirements of subsections (b)(1)(B) and (b)(2)(B) of section 402; and

(2) the status of projects that receive assistance under this subtitle.

SEC. 404. CLEAN COAL CENTERS OF EXCELLENCE.

(a) IN GENERAL.—As part of the clean coal power initiative, the Secretary shall award

competitive, merit-based grants to institutions of higher education for the establishment of centers of excellence for energy systems of the future.

(b) BASIS FOR GRANTS.— The Secretary shall award grants under this section to institutions of higher education that show the greatest potential for advancing new clean coal technologies.

SEC. 405. INTEGRATED COAL/RENEWABLE ENERGY SYSTEM.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary may provide loan guarantees for a project to produce energy from coal of less than 7,000 Btu/lb using appropriate advanced integrated gasification combined cycle technology, including repowering of existing facilities, that—

(1) is combined with wind and other renewable sources;

(2) minimizes and offers the potential to sequester carbon dioxide emissions; and

(3) provides a ready source of hydrogen for near-site fuel cell demonstrations.

(b) REQUIREMENTS.—The facility—

(1) may be built in stages;

(2) shall have a combined output of at least 200 megawatts at successively more competitive rates; and

(3) shall be located in the Upper Great Plains.

(c) TECHNICAL CRITERIA.—Technical criteria described in section 402(b) shall apply to the facility.

(d) FEDERAL COST SHARE.—The Federal cost share for the facility shall not exceed 50 percent.

(e) INVESTMENT TAX CREDITS.—

(1) IN GENERAL.—The loan guarantees provided under this section do not preclude the facility from receiving an allocation for investment tax credits under section 48A of the Internal Revenue Code of 1986.

(2) OTHER FUNDING.—Use of the investment tax credit described in paragraph (1) does not prohibit the use of other clean coal program funding.

SEC. 406. LOAN TO PLACE ALASKA CLEAN COAL TECHNOLOGY FACILITY IN SERVICE.

(a) DEFINITIONS.—In this section:

(1) BORROWER.—The term ''borrower'' means the owner of the clean coal technology plant.

(2) CLEAN COAL TECHNOLOGY PLANT.—The term ''clean coal technology plant'' means the plant located near Healy, Alaska, constructed under Department cooperative agreement number DE–FC–22–91PC90544.

(3) COST OF A DIRECT LOAN.—The term ''cost of a direct loan'' has the meaning given the term in section 502(5)(B) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(B)).

(b) AUTHORIZATION.—Subject to subsection (c), the Secretary shall use amounts made available under subsection (e) to provide the cost of a direct loan to the borrower for purposes of placing the clean coal technology plant into reliable operation for the generation of electricity.

(c) REQUIREMENTS.—

(1) MAXIMUM LOAN AMOUNT.—The amount of the direct loan provided under subsection (b) shall not exceed $80,000,000.

(2) DETERMINATIONS BY SECRETARY.—Before providing the direct loan to the borrower under subsection (b), the Secretary shall determine that—

(A) the plan of the borrower for placing the clean coal technology plant in reliable operation has a reasonable prospect of success;

(B) the amount of the loan (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project; and

(C) there is a reasonable prospect that the borrower will repay the principal and interest on the loan.

(3) INTEREST; TERM.—The direct loan provided under subsection (b) shall bear interest at a rate and for a term that the Secretary determines appropriate, after consultation with the Secretary of the Treasury, taking into account the needs and capacities of the borrower and the prevailing rate of interest for similar loans made by public and private lenders.

(4) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any other terms and conditions that the Secretary determines to be appropriate.

(d) USE OF PAYMENTS.—The Secretary shall retain any payments of principal and interest on the direct loan provided under subsection (b) to support energy research and development activities, to remain available until expended, subject to any other conditions in an applicable appropriations Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to provide the cost of a direct loan under subsection (b).

SEC. 407. WESTERN INTEGRATED COAL GASIFICATION DEMONSTRATION PROJECT.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall carry out a demonstration project to produce energy from coal (of not more than 9,000 Btu/lb) mined in the western United States using integrated gasification combined cycle technology, including repowering of existing facilities, that is capable of sequestering carbon dioxide emissions (referred to in this section as the ''demonstration project'').

(b) LOCATION.—The demonstration project shall be located in a western State at an altitude of greater than 4,000 feet above sea level.

(c) COST SHARING.—The Federal share of the cost of the demonstration project shall be determined in accordance with section 1002.

(d) LOAN GUARANTEES.—Notwithstanding title XIV, the demonstration project shall not be eligible for Federal loan guarantees.

Subtitle B—Federal Coal Leases

SEC. 411. REPEAL OF THE 160-ACRE LIMITATION FOR COAL LEASES.

Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended—

(1) in the first sentence, by striking ''Any person'' and inserting the following: ''(a)(1) Except as provided in paragraph (3), on a finding by the Secretary under paragraph (2), any person'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(b) The Secretary'';

(3) in the third sentence, by striking ''The minimum'' and inserting the following:

''(c) The minimum'';

(4) in subsection (a) (as designated by paragraph (1))—

(A) by striking ''upon'' and all that follows and inserting the following: ''secure modifications of the original coal lease by including additional coal lands or coal deposits contiguous or cornering to those embraced in the lease.''; and

(B) by adding at the end the following:

''(2) A finding referred to in paragraph (1) is a finding by the Secretary that the modifications—

''(A) would be in the interest of the United States;

''(B) would not displace a competitive interest in the lands; and

''(C) would not include lands or deposits that can be developed as part of another potential or existing operation.

''(3) In no case shall the total area added by modifications to an existing coal lease under paragraph (1)—

''(A) exceed 320 acres; or

''(B) add acreage larger than that in the original lease.''.

SEC. 412. MINING PLANS.

Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended—

(1) by inserting ''(A)'' after ''(2)''; and

(2) by adding at the end the following:

''(B) The Secretary may establish a period of more than 40 years if the Secretary determines that—

''(i) the longer period will ensure the maximum economic recovery of a coal deposit; or

''(ii) the longer period is in the interest of the orderly, efficient, or economic development of a coal resource.''.

SEC. 413. PAYMENT OF ADVANCE ROYALTIES UNDER COAL LEASES.

Section 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended—

(1) in the first sentence, by striking ''Each lease'' and inserting the following: ''(1) Each lease'';

(2) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(2) The Secretary'';

(3) in the third sentence, by striking ''Such advance royalties'' and inserting the following:

''(3) Advance royalties described in paragraph (2)'';

(4) in the seventh sentence, by striking ''The Secretary'' and inserting the following:

''(6) The Secretary'';

(5) in the last sentence, by striking ''Nothing'' and inserting the following:

''(7) Nothing'';

(6) by striking the fourth, fifth, and sixth sentences; and

(7) by inserting after paragraph (3) (as designated by paragraph (3)) the following:

''(4) The aggregate number of years during the period of any lease for which advance royalties may be accepted in lieu of the condition of continued operation shall not exceed 20 years.

''(5) The amount of any production royalty paid for any year shall be reduced (but not below 0) by the amount of any advance royalties paid under a lease described in paragraph (4) to the extent that the advance royalties have not been used to reduce production royalties for a prior year.''.

SEC. 414. ELIMINATION OF DEADLINE FOR SUBMISSION OF COAL LEASE OPERATION AND RECLAMATION PLAN.

Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended by striking ''and not later than three years after a lease is issued,''.

SEC. 415. APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—The amendments made by this subtitle apply to any coal lease issued on or after the date of enactment of this Act.

(b) COAL LEASES ISSUED BEFORE DATE OF ENACTMENT.—With respect to any coal lease issued before the date of enactment of this Act, the amendments made by this subtitle apply—

(1) on the date of readjustment of the lease as provided under section 7(a) of the Mineral Leasing Act (30 U.S.C. 207); or

(2) on request by the lessee, prior to that date.

TITLE V—INDIAN ENERGY

SEC. 501. SHORT TITLE.

This title may be cited as the ''Indian Tribal Energy Development and Self-Determination Act of 2005''.

SEC. 502. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

(a) IN GENERAL.—Title II of the Department of Energy Organization Act (42 U.S.C. 7131 et seq.) is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''SEC. 217. (a) ESTABLISHMENT.—

''(1) There is established within the Department an Office of Indian Energy Policy and Programs (referred to in this section as the 'Office').

''(2) The Office shall be headed by a Director, to be appointed by the Secretary and compensated at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) DUTIES OF DIRECTOR.—The Director, in accordance with Federal policies promoting Indian self-determination and the purposes of this Act, shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote Indian tribal energy development, efficiency, and use;

''(2) reduce or stabilize energy costs;

''(3) enhance and strengthen Indian tribal energy and economic infrastructure relating to natural resource development and electrification; and

''(4) bring electrical power and service to Indian land and the homes of tribal members that are—

''(A) located on Indian land; or

''(B) acquired, constructed, or improved (in whole or in part) with Federal funds.''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents of the Department of Energy Organization Act (42 U.S.C. prec. 7101) is amended—

(A) in the item relating to section 209, by striking ''SECTION'' and inserting ''SEC.''; and

(B) by striking the items relating to sections 213 through 216 and inserting the following:

''Sec. 213. Establishment of policy for National Nuclear Security Administration.

''Sec. 214. Establishment of security, counterintelligence, and intelligence policies.

''Sec. 215. Office of Counterintelligence.

''Sec. 216. Office of Intelligence.

''Sec. 217. Office of Indian Energy Policy and Programs.''.

(2) Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

SEC. 503. INDIAN ENERGY.

(a) IN GENERAL.—Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.) is amended to read as follows:

''TITLE XXVI—INDIAN ENERGY

''SEC. 2601. DEFINITIONS.

''In this title:

''(1) The term 'Director' means the Director of the Office of Indian Energy Policy and Programs, Department of Energy.

''(2) The term 'Indian land' means—

''(A) any land located within the boundaries of an Indian reservation, pueblo, or rancheria;

''(B) any land not located within the boundaries of an Indian reservation, pueblo, or rancheria, the title to which is held—

''(i) in trust by the United States for the benefit of an Indian tribe or an individual Indian;

''(ii) by an Indian tribe or an individual Indian, subject to restriction against alienation under laws of the United States; or

''(iii) by a dependent Indian community; and

''(C) land that is owned by an Indian tribe and was conveyed by the United States to a Native Corporation pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), or that was conveyed by the United States to a Native Corporation in exchange for such land.

''(3) The term 'Indian reservation' includes—

''(A) an Indian reservation in existence in any State as of the date of enactment of this paragraph;

''(B) a public domain Indian allotment; and

''(C) a dependent Indian community located within the borders of the United States, regardless of whether the community is located—

''(i) on original or acquired territory of the community; or

''(ii) within or outside the boundaries of any particular State.

''(4)(A) The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

''(B) For the purpose of paragraph (12) and sections 2603(b)(1)(C) and 2604, the term 'Indian tribe' does not include any Native Corporation.

''(5) The term 'integration of energy resources' means any project or activity that promotes the location and operation of a facility (including any pipeline, gathering system, transportation system or facility, or electric transmission or distribution facility) on or near Indian land to process, refine, generate electricity from, or otherwise develop energy resources on, Indian land.

''(6) The term 'Native Corporation' has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

''(7) The term 'organization' means a partnership, joint venture, limited liability company, or other unincorporated association or entity that is established to develop Indian energy resources.

''(8) The term 'Program' means the Indian energy resource development program established under section 2602(a).

''(9) The term 'Secretary' means the Secretary of the Interior.

''(10) The term 'sequestration' means the 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.

''(11) The term 'tribal energy resource development organization' means an organization of 2 or more entities, at least 1 of which is an Indian tribe, that has the written consent of the governing bodies of all Indian tribes participating in the organization to apply for a grant, loan, or other assistance under section 2602.

''(12) The term 'tribal land' means any land or interests in land owned by any Indian tribe, title to which is held in trust by the United States, or is subject to a restriction against alienation under laws of the United States.

''SEC. 2602. INDIAN TRIBAL ENERGY RESOURCE DEVELOPMENT.

''(a) DEPARTMENT OF THE INTERIOR PROGRAM.—

''(1) To assist Indian tribes in the development of energy resources and further the goal of Indian self-determination, the Secretary shall establish and implement an Indian energy resource development program to assist consenting Indian tribes and tribal energy resource development organizations in achieving the purposes of this title.

''(2) In carrying out the Program, the Secretary shall—

''(A) provide development grants to Indian tribes and tribal energy resource development organizations for use in developing or obtaining the managerial and technical capacity needed to develop energy resources on Indian land, and to properly account for resulting energy production and revenues;

''(B) provide grants to Indian tribes and tribal energy resource development organizations for use in carrying out projects to promote the integration of energy resources, and to process, use, or develop those energy resources, on Indian land; and

''(C) provide low-interest loans to Indian tribes and tribal energy resource development organizations for use in the promotion of energy resource development on Indian land and integration of energy resources.

''(3) There are authorized to be appropriated to carry out this subsection such sums as are necessary for each of fiscal years 2006 through 2016.

''(b) DEPARTMENT OF ENERGY INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE PROGRAM.—

''(1) The Director shall establish programs to assist consenting Indian tribes in meeting energy education, research and development, planning, and management needs.

''(2) In carrying out this subsection, the Director may provide grants, on a competitive basis, to an Indian tribe or tribal energy resource development organization for use in carrying out—

''(A) energy, energy efficiency, and energy conservation programs;

''(B) studies and other activities supporting tribal acquisitions of energy supplies, services, and facilities, including the creation of tribal utilities to assist in securing electricity to promote electrification of homes and businesses on Indian land;

''(C) planning, construction, development, operation, maintenance, and improvement of tribal electrical generation, transmission, and distribution facilities located on Indian land; and

''(D) development, construction, and interconnection of electric power transmission facilities located on Indian land with other electric transmission facilities.

''(3)(A) The Director shall develop a program to support and implement research projects that provide Indian tribes with opportunities to participate in carbon sequestration practices on Indian land, including—

''(i) geologic sequestration;

''(ii) forest sequestration;

''(iii) agricultural sequestration; and

''(iv) any other sequestration opportunities the Director considers to be appropriate.

''(B) The activities carried out under subparagraph (A) shall be—

''(i) coordinated with other carbon sequestration research and development programs conducted by the Secretary of Energy;

''(ii) conducted to determine methods consistent with existing standardized measurement protocols to account and report the quantity of carbon dioxide or other greenhouse gases sequestered in projects that may be implemented on tribal land; and

''(iii) reviewed periodically to collect and distribute to Indian tribes information on carbon sequestration practices that will increase the sequestration of carbon without threatening the social and economic well-being of Indian tribes.

''(4)(A) The Director, in consultation with Indian tribes, may develop a formula for providing grants under this subsection.

''(B) In providing a grant under this subsection, the Director shall give priority to any application received from an Indian tribe with inadequate electric service (as determined by the Director).

''(5) The Secretary of Energy may issue such regulations as the Secretary determines to be necessary to carry out this subsection.

''(6) There is authorized to be appropriated to carry out this subsection $20,000,000 for each of fiscal years 2006 through 2016.

''(c) DEPARTMENT OF ENERGY LOAN GUARANTEE PROGRAM.—

''(1) Subject to paragraphs (2) and (4), the Secretary of Energy may provide loan guarantees (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) for an amount equal to not more than 90 percent of the unpaid principal and interest due on any loan made to an Indian tribe for energy development.

''(2) In evaluating energy development proposals for which the Secretary of Energy may provide a loan guarantee under paragraph (1), the Secretary of Energy shall give priority to any project that uses a new technology, such as coal gasification, carbon capture and sequestration, or renewable energy-based electricity generation, if competing proposals are similar with respect to the level at which the proposals meet or exceed the criteria established by the Secretary of Energy for the loan guarantee program.

''(3) A loan guarantee under this subsection shall be made by—

''(A) a financial institution subject to examination by the Secretary of Energy; or

''(B) an Indian tribe, from funds of the Indian tribe.

''(4) The aggregate outstanding amount guaranteed by the Secretary of Energy at any time under this subsection shall not exceed $2,000,000,000.

''(5) The Secretary of Energy may issue such regulations as the Secretary of Energy determines are necessary to carry out this subsection.

''(6) There are authorized to be appropriated such sums as are necessary to carry out this subsection, to remain available until expended.

''(7) Not later than 1 year after the date of enactment of this section, the Secretary of Energy shall submit to Congress a report on the financing requirements of Indian tribes for energy development on Indian land.

''(d) PREFERENCE.—

''(1) In purchasing electricity or any other energy product or byproduct, a Federal agency or department may give preference to an energy and resource production enterprise, partnership, consortium, corporation, or other type of business organization the majority of the interest in which is owned and controlled by 1 or more Indian tribes.

''(2) In carrying out this subsection, a Federal agency or department shall not—

''(A) pay more than the prevailing market price for an energy product or byproduct; or

''(B) obtain less than prevailing market terms and conditions.

''SEC. 2603. INDIAN TRIBAL ENERGY RESOURCE REGULATION.

''(a) GRANTS.—The Secretary may provide to Indian tribes, on an annual basis, grants for use in accordance with subsection (b).

''(b) USE OF FUNDS.—Funds from a grant provided under this section may be used—

''(1)(A) by an Indian tribe for the development of a tribal energy resource inventory or tribal energy resource on Indian land;

''(B) by an Indian tribe for the development of a feasibility study or other report necessary to the development of energy resources on Indian land;

''(C) by an Indian tribe (other than an Indian Tribe in the State of Alaska, except the Metlakatla Indian Community) for—

''(i) the development and enforcement of tribal laws (including regulations) relating to tribal energy resource development; and

''(ii) the development of technical infrastructure to protect the environment under applicable law; or

''(D) by a Native Corporation for the development and implementation of corporate policies and the development of technical infrastructure to protect the environment under applicable law; and

''(2) by an Indian tribe for the training of employees that—

''(A) are engaged in the development of energy resources on Indian land; or

''(B) are responsible for protecting the environment.

''(c) OTHER ASSISTANCE.—

''(1) In carrying out the obligations of the United States under this title, the Secretary shall ensure, to the maximum extent practicable and to the extent of available resources, that on the request of an Indian tribe, the Indian tribe shall have available scientific and technical information and expertise, for use in the regulation, development, and management of energy resources of the Indian tribe on Indian land.

''(2) The Secretary may carry out paragraph (1)—

''(A) directly, through the use of Federal officials; or

''(B) indirectly, by providing financial assistance to an Indian tribe to secure independent assistance.

''SEC. 2604. LEASES, BUSINESS AGREEMENTS, AND RIGHTS-OF-WAY INVOLVING ENERGY DEVELOPMENT OR TRANSMISSION.

''(a) LEASES AND BUSINESS AGREEMENTS.—In accordance with this section—

''(1) an Indian tribe may, at the discretion of the Indian tribe, enter into a lease or business agreement for the purpose of energy resource development on tribal land, including a lease or business agreement for—

''(A) exploration for, extraction of, processing of, or other development of the energy mineral resources of the Indian tribe located on tribal land; or

''(B) construction or operation of—

''(i) an electric generation, transmission, or distribution facility located on tribal land; or

''(ii) a facility to process or refine energy resources developed on tribal land; and

''(2) a lease or business agreement described in paragraph (1) shall not require the approval of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), or any other provision of law, if—

''(A) the lease or business agreement is executed pursuant to a tribal energy resource agreement approved by the Secretary under subsection (e);

''(B) the term of the lease or business agreement does not exceed—

''(i) 30 years; or

''(ii) in the case of a lease for the production of oil resources, gas resources, or both, 10 years and as long thereafter as oil or gas is produced in paying quantities; and

''(C) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under the agreement, to be conducted pursuant to subsection (e)(2)(D)(i)).

''(b) RIGHTS-OF-WAY FOR PIPELINES OR ELECTRIC TRANSMISSION OR DISTRIBUTION LINES.—An Indian tribe may grant a right-of-way over tribal land for a pipeline or an electric transmission or distribution line without approval by the Secretary if—

''(1) the right-of-way is executed in accordance with a tribal energy resource agreement approved by the Secretary under subsection (e);

''(2) the term of the right-of-way does not exceed 30 years;

''(3) the pipeline or electric transmission or distribution line serves—

''(A) an electric generation, transmission, or distribution facility located on tribal land; or

''(B) a facility located on tribal land that processes or refines energy resources developed on tribal land; and

''(4) the Indian tribe has entered into a tribal energy resource agreement with the Secretary, as described in subsection (e), relating to the development of energy resources on tribal land (including the periodic review and evaluation of the activities of the Indian tribe under an agreement described in subparagraphs (D) and (E) of subsection (e)(2)).

''(c) RENEWALS.—A lease or business agreement entered into, or a right-of-way granted, by an Indian tribe under this section may be renewed at the discretion of the Indian tribe in accordance with this section.

''(d) VALIDITY.—No lease, business agreement, or right-of-way relating to the development of tribal energy resources under this section shall be valid unless the lease, business agreement, or right-of-way is authorized by a tribal energy resource agreement approved by the Secretary under subsection (e)(2).

''(e) TRIBAL ENERGY RESOURCE AGREEMENTS.—

''(1) On the date on which regulations are promulgated under paragraph (8), an Indian tribe may submit to the Secretary for approval a tribal energy resource agreement governing leases, business agreements, and rights-of-way under this section.

''(2)(A) Not later than 1 year after the date on which the Secretary receives a tribal energy resource agreement from an Indian tribe under paragraph (1), or not later than 60 days after the Secretary receives a revised tribal energy resource agreement from an Indian tribe under paragraph (4)(C) (or a later date, as agreed to by the Secretary and the Indian tribe), the Secretary shall approve or disapprove the tribal energy resource agreement.

''(B) The Secretary shall approve a tribal energy resource agreement submitted under paragraph (1) if—

''(i) the Secretary determines that the Indian tribe has demonstrated that the Indian tribe has sufficient capacity to regulate the development of energy resources of the Indian tribe;

''(ii) the tribal energy resource agreement includes provisions required under subparagraph (D); and

''(iii) the tribal energy resource agreement includes provisions that, with respect to a lease, business agreement, or right-of-way under this section—

''(I) ensure the acquisition of necessary information from the applicant for the lease, business agreement, or right-of-way;

''(II) address the term of the lease or business agreement or the term of conveyance of the right-of-way;

''(III) address amendments and renewals;

''(IV) address the economic return to the Indian tribe under leases, business agreements, and rights-of-way;

''(V) address technical or other relevant requirements;

''(VI) establish requirements for environmental review in accordance with subparagraph (C);

''(VII) ensure compliance with all applicable environmental laws, including a requirement that each lease, business agreement, and right-of-way state that the lessee, operator, or right-of-way grantee shall comply with all such laws;

''(VIII) identify final approval authority;

''(IX) provide for public notification of final approvals;

''(X) establish a process for consultation with any affected States regarding off-reservation impacts, if any, identified under subparagraph (C)(i);

''(XI) describe the remedies for breach of the lease, business agreement, or right-of-way;

''(XII) require each lease, business agreement, and right-of-way to include a statement that, if any of its provisions violates an express term or requirement of the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed—

''(aa) the provision shall be null and void; and

''(bb) if the Secretary determines the provision to be material, the Secretary may suspend or rescind the lease, business agreement, or right-of-way or take other appropriate action that the Secretary determines to be in the best interest of the Indian tribe;

''(XIII) require each lease, business agreement, and right-of-way to provide that it will become effective on the date on which a copy of the executed lease, business agreement, or right-of-way is delivered to the Secretary in accordance with regulations promulgated under paragraph (8);

''(XIV) include citations to tribal laws, regulations, or procedures, if any, that set out tribal remedies that must be exhausted before a petition may be submitted to the Secretary under paragraph (7)(B);

''(XV) specify the financial assistance, if any, to be provided by the Secretary to the Indian tribe to assist in implementation of the tribal energy resource agreement, including environmental review of individual projects; and

''(XVI) in accordance with the regulations promulgated by the Secretary under paragraph (8), require that the Indian tribe, as soon as practicable after receipt of a notice by the Indian tribe, give written notice to the Secretary of—

''(aa) any breach or other violation by another party of any provision in a lease, business agreement, or right-of-way entered into under the tribal energy resource agreement; and

''(bb) any activity or occurrence under a lease, business agreement, or right-of-way that constitutes a violation of Federal or tribal environmental laws.

''(C) Tribal energy resource agreements submitted under paragraph (1) shall establish, and include provisions to ensure compliance with, an environmental review process that, with respect to a lease, business agreement, or right-of-way under this section, provides for, at a minimum—

''(i) the identification and evaluation of all significant environmental effects (as compared to a no-action alternative), including effects on cultural resources;

''(ii) the identification of proposed mitigation measures, if any, and incorporation of the mitigation measures into the lease, business agreement, or right-of-way;

''(iii) a process for ensuring that—

''(I) the public is informed of, and has an opportunity to comment on, the environmental impacts of the proposed action; and

''(II) responses to relevant and substantive comments are provided, before tribal approval of the lease, business agreement, or right-of-way;

''(iv) sufficient administrative support and technical capability to carry out the environmental review process; and

''(v) oversight by the Indian tribe of energy development activities by any other party under any lease, business agreement, or right-of-way entered into pursuant to the tribal energy resource agreement, to determine whether the activities are in compliance with the tribal energy resource agreement and applicable Federal environmental laws.

''(D) A tribal energy resource agreement between the Secretary and an Indian tribe under this subsection shall include—

''(i) provisions requiring the Secretary to conduct a periodic review and evaluation to monitor the performance of the activities of the Indian tribe associated with the development of energy resources under the tribal energy resource agreement; and

''(ii) if a periodic review and evaluation, or an investigation, by the Secretary of any breach or violation described in a notice provided by the Indian tribe to the Secretary in accordance with subparagraph (B)(iii)(XVI), results in a finding by the Secretary of imminent jeopardy to a physical trust asset arising from a violation of the tribal energy resource agreement or applicable Federal laws, provisions authorizing the Secretary to take actions determined by the Secretary to be necessary to protect the asset, including reassumption of responsibility for activities associated with the development of energy resources on tribal land until the violation and any condition that caused the jeopardy are corrected.

''(E) Periodic review and evaluation under subparagraph (D) shall be conducted on an annual basis, except that, after the third annual review and evaluation, the Secretary and the Indian tribe may mutually agree to amend the tribal energy resource agreement to authorize the review and evaluation under subparagraph (D) to be conducted once every 2 years.

''(3) The Secretary shall provide notice and opportunity for public comment on tribal energy resource agreements submitted for approval under paragraph (1).

''(4) If the Secretary disapproves a tribal energy resource agreement submitted by an Indian tribe under paragraph (1), the Secretary shall, not later than 10 days after the date of disapproval—

''(A) notify the Indian tribe in writing of the basis for the disapproval;

''(B) identify what changes or other actions are required to address the concerns of the Secretary; and

''(C) provide the Indian tribe with an opportunity to revise and resubmit the tribal energy resource agreement.

''(5) If an Indian tribe executes a lease or business agreement, or grants a right-of-way, in accordance with a tribal energy resource agreement approved under this subsection, the Indian tribe shall, in accordance with the process and requirements under regulations promulgated under paragraph (8), provide to the Secretary—

''(A) a copy of the lease, business agreement, or right-of-way document (including all amendments to and renewals of the document); and

''(B) in the case of a tribal energy resource agreement or a lease, business agreement, or right-of-way that permits payments to be made directly to the Indian tribe, information and documentation of those payments sufficient to enable the Secretary to discharge the trust responsibility of the United States to enforce the terms of, and protect the rights of the Indian tribe under, the lease, business agreement, or right-of-way.

''(6)(A) In carrying out this section, the Secretary shall—

''(i) act in accordance with the trust responsibility of the United States relating to mineral and other trust resources; and

''(ii) act in good faith and in the best interests of the Indian tribes.

''(B) Subject to the provisions of subsections (a)(2), (b), and (c) waiving the requirement of Secretarial approval of leases, business agreements, and rights-of-way executed pursuant to tribal energy resource agreements approved under this section, and the provisions of subparagraph (D), nothing in this section shall absolve the United States from any responsibility to Indians or Indian tribes, including, but not limited to, those which derive from the trust relationship or from any treaties, statutes, and other laws of the United States, Executive Orders, or agreements between the United States and any Indian tribe.

''(C) The Secretary shall continue to fulfill the trust obligation of the United States to ensure that the rights and interests of an Indian tribe are protected if—

''(i) any other party to a lease, business agreement, or right-of-way violates any applicable Federal law or the terms of any lease, business agreement, or right-of-way under this section; or

''(ii) any provision in a lease, business agreement, or right-of-way violates the tribal energy resource agreement pursuant to which the lease, business agreement, or right-of-way was executed.

''(D)(i) In this subparagraph, the term 'negotiated term' means any term or provision that is negotiated by an Indian tribe and any other party to a lease, business agreement, or right-of-way entered into pursuant to an approved tribal energy resource agreement.

''(ii) Notwithstanding subparagraph (B), the United States shall not be liable to any party (including any Indian tribe) for any negotiated term of, or any loss resulting from the negotiated terms of, a lease, business agreement, or right-of-way executed pursuant to and in accordance with a tribal energy resource agreement approved by the Secretary under paragraph (2).

''(7)(A) In this paragraph, the term 'interested party' means any person (including an entity) that has demonstrated that an interest of the person has sustained, or will sustain, an adverse environmental impact as a result of the failure of an Indian tribe to comply with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(B) After exhaustion of any tribal remedy, and in accordance with regulations promulgated by the Secretary under paragraph (8), an interested party may submit to the Secretary a petition to review the compliance by an Indian tribe with a tribal energy resource agreement of the Indian tribe approved by the Secretary under paragraph (2).

''(C)(i) Not later than 20 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall—

''(I) provide to the Indian tribe a copy of the petition; and

''(II) consult with the Indian tribe regarding any noncompliance alleged in the petition.

''(ii) Not later than 45 days after the date on which a consultation under clause (i)(II) takes place, the Indian tribe shall respond to any claim made in a petition under subparagraph (B).

''(iii) The Secretary shall act in accordance with subparagraphs (D) and (E) only if the Indian tribe—

''(I) denies, or fails to respond to, each claim made in the petition within the period described in clause (ii); or

''(II) fails, refuses, or is unable to cure or otherwise resolve each claim made in the petition within a reasonable period, as determined by the Secretary, after the expiration of the period described in clause (ii).

''(D)(i) Not later than 120 days after the date on which the Secretary receives a petition under subparagraph (B), the Secretary shall determine whether the Indian tribe is not in compliance with the tribal energy resource agreement.

''(ii) The Secretary may adopt procedures under paragraph (8) authorizing an extension of time, not to exceed 120 days, for making the determination under clause (i) in any case in which the Secretary determines that additional time is necessary to evaluate the allegations of the petition.

''(iii) Subject to subparagraph (E), if the Secretary determines that the Indian tribe is not in compliance with the tribal energy resource agreement, the Secretary shall take such action as the Secretary determines to be necessary to ensure compliance with the tribal energy resource agreement, including—

''(I) temporarily suspending any activity under a lease, business agreement, or right-of-way under this section until the Indian tribe is in compliance with the approved tribal energy resource agreement; or

''(II) rescinding approval of all or part of the tribal energy resource agreement, and if all of the agreement is rescinded, reassuming the responsibility for approval of any future leases, business agreements, or rights-of-way described in subsection (a) or (b).

''(E) Before taking an action described in subparagraph (D)(iii), the Secretary shall—

''(i) make a written determination that describes the manner in which the tribal energy resource agreement has been violated;

''(ii) provide the Indian tribe with a written notice of the violations together with the written determination; and

''(iii) before taking any action described in subparagraph (D)(iii) or seeking any other remedy, provide the Indian tribe with a hearing and a reasonable opportunity to attain compliance with the tribal energy resource agreement.

''(F) An Indian tribe described in subparagraph (E) shall retain all rights to appeal under any regulation promulgated by the Secretary.

''(8) Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary shall promulgate regulations that implement this subsection, including—

''(A) criteria to be used in determining the capacity of an Indian tribe under paragraph (2)(B)(i), including the experience of the Indian tribe in managing natural resources and financial and administrative resources available for use by the Indian tribe in implementing the approved tribal energy resource agreement of the Indian tribe;

''(B) a process and requirements in accordance with which an Indian tribe may—

''(i) voluntarily rescind a tribal energy resource agreement approved by the Secretary under this subsection; and

''(ii) return to the Secretary the responsibility to approve any future lease, business agreement, or right-of-way under this subsection;

''(C) provisions establishing the scope of, and procedures for, the periodic review and evaluation described in subparagraphs (D) and (E) of paragraph (2), including provisions for review of transactions, reports, site inspections, and any other review activities the Secretary determines to be appropriate; and

''(D) provisions describing final agency actions after exhaustion of administrative appeals from determinations of the Secretary under paragraph (7).

''(f) NO EFFECT ON OTHER LAW.—Nothing in this section affects the application of—

''(1) any Federal environmental law;

''(2) the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.); or

''(3) except as otherwise provided in this title, the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).

''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary for each of fiscal years 2006 through 2016 to carry out this section and to make grants or provide other appropriate assistance to Indian tribes to assist the Indian tribes in developing and implementing tribal energy resource agreements in accordance with this section.

''SEC. 2605. FEDERAL POWER MARKETING ADMINISTRATIONS.

''(a) DEFINITIONS.—In this section:

''(1) The term ''Administrator'' means the Administrator of the Bonneville Power Administration and the Administrator of the Western Area Power Administration.

''(2) The term ''power marketing administration'' means—

''(A) the Bonneville Power Administration;

''(B) the Western Area Power Administration; and

''(C) any other power administration the power allocation of which is used by or for the benefit of an Indian tribe located in the service area of the administration.

''(b) ENCOURAGEMENT OF INDIAN TRIBAL ENERGY DEVELOPMENT.—Each Administrator shall encourage Indian tribal energy development by taking such actions as the Administrators determine to be appropriate, including administration of programs of the power marketing administration, in accordance with this section.

''(c) ACTION BY ADMINISTRATORS.—In carrying out this section, in accordance with laws in existence on the date of enactment of the Energy Policy Act of 2005—

''(1) each Administrator shall consider the unique relationship that exists between the United States and Indian tribes;

''(2) power allocations from the Western Area Power Administration to Indian tribes may be used to meet firming and reserve needs of Indian-owned energy projects on Indian land;

''(3) the Administrator of the Western Area Power Administration may purchase nonfederally generated power from Indian tribes to meet the firming and reserve requirements of the Western Area Power Administration; and

''(4) each Administrator shall not—

''(A) pay more than the prevailing market price for an energy product; or

''(B) obtain less than prevailing market terms and conditions.

''(d) ASSISTANCE FOR TRANSMISSION SYSTEM USE.—

''(1) An Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power.

''(2) The costs of technical assistance provided under paragraph (1) shall be funded—

''(A) by the Secretary of Energy using nonreimbursable funds appropriated for that purpose; or

''(B) by any appropriate Indian tribe.

''(e) POWER ALLOCATION STUDY.—Not later than 2 years after the date of enactment of the Energy Policy Act of 2005, the Secretary of Energy shall submit to Congress a report that—

''(1) describes the use by Indian tribes of Federal power allocations of the power marketing administration (or power sold by the Southwestern Power Administration) to or for the benefit of Indian tribes in a service area of the power marketing administration; and

''(2) identifies—

''(A) the quantity of power allocated to, or used for the benefit of, Indian tribes by the Western Area Power Administration;

''(B) the quantity of power sold to Indian tribes by any other power marketing administration; and

''(C) barriers that impede tribal access to and use of Federal power, including an assessment of opportunities to remove those barriers and improve the ability of power marketing administrations to deliver Federal power.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $750,000, non-reimbursable, to remain available until expended.

''SEC. 2606. WIND AND HYDROPOWER FEASIBILITY STUDY.

''(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary, shall conduct a study of the cost and feasibility of developing a demonstration project that uses wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.

''(b) SCOPE OF STUDY.—The study shall—

''(1) determine the feasibility of blending wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;

''(2) review historical and projected requirements for, and patterns of availability and use of, firming power;

''(3) assess the wind energy resource potential on tribal land and projected cost savings through a blend of wind and hydropower over a 30-year period;

''(4) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and

''(5) include an independent tribal engineer as a study team member.

''(c) REPORT.—Not later than 1 year after the date of enactment of the Energy Policy Act of 2005, the Secretary and the Secretary of the Army shall submit to Congress a report that describes the results of the study, including—

''(1) an analysis of the potential energy cost or benefits to the customers of the Western Area Power Administration through the use of combined wind and hydropower;

''(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production, and provide Missouri River management flexibility;

''(3) recommendations for a demonstration project to be carried out by the Western Area Power Administration, in partnership with an Indian tribal government or tribal energy resource development organization, to demonstrate the feasibility and potential of using wind energy produced on Indian land to supply firming energy to the Western Area Power Administration or any other Federal power marketing agency; and

''(4) an identification of—

''(A) the economic and environmental costs of, or benefits to be realized through, a Federal-tribal partnership; and

''(B) the manner in which a Federal-tribal partnership could contribute to the energy security of the United States.

''(d) FUNDING.—

''(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000, to remain available until expended.

''(2) NONREIMBURSABILITY.—Costs incurred by the Secretary in carrying out this section shall be nonreimbursable.''.

(b) CONFORMING AMENDMENTS.—The table of contents for the Energy Policy Act of 1992 is amended by striking the items relating to title XXVI and inserting the following:

''Sec. 2601. Definitions.

''Sec. 2602. Indian tribal energy resource development.

''Sec. 2603. Indian tribal energy resource regulation.

''Sec. 2604. Leases, business agreements, and rights-of-way involving energy development or transmission.

''Sec. 2605. Federal Power Marketing Administrations.

''Sec. 2606. Wind and hydropower feasibility study.''.

SEC. 504. FOUR CORNERS TRANSMISSION LINE PROJECT AND ELECTRIFICATION.

(a) TRANSMISSION LINE PROJECT.—The Dine Power Authority, an enterprise of the Navajo Nation, shall be eligible to receive grants and other assistance under section 217 of the Department of Energy Organization Act, as added by section 502, and section 2602 of the Energy Policy Act of 1992, as amended by this Act, for activities associated with the development of a transmission line from the Four Corners Area to southern Nevada, including related power generation opportunities.

(b) NAVAJO ELECTRIFICATION.—Section 602 of Public Law 106-511 (114 Stat. 2376) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''5-year'' and inserting ''10-year''; and

(B) in the third sentence, by striking ''2006'' and inserting ''2011''; and

(2) in the first sentence of subsection (e) by striking ''2006'' and inserting ''2011''.

SEC. 505. ENERGY EFFICIENCY IN FEDERALLY ASSISTED HOUSING.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall promote energy conservation in housing that is located on Indian land and assisted with Federal resources through—

(1) the use of energy-efficient technologies and innovations (including the procurement of energy-efficient refrigerators and other appliances);

(2) the promotion of shared savings contracts; and

(3) the use and implementation of such other similar technologies and innovations as the Secretary of Housing and Urban Development considers to be appropriate.

(b) AMENDMENT.—Section 202(2) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(2)) is amended by inserting ''improvement to achieve greater energy efficiency,'' after ''planning,''.

SEC. 506. CONSULTATION WITH INDIAN TRIBES.

In carrying out this Act and the amendments made by this Act, the Secretary of Energy and the Secretary shall, as appropriate and to the maximum extent practicable, involve and consult with Indian tribes in a manner that is consistent with the Federal trust and the government-to-government relationships between Indian tribes and the United States.

TITLE VI—NUCLEAR MATTERS

Subtitle A—Price-Anderson Act Amendments

SEC. 601. SHORT TITLE.

This subtitle may be cited as the ''Price-Anderson Amendments Act of 2005''.

SEC. 602. EXTENSION OF INDEMNIFICATION AUTHORITY.

(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—

(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and

(2) by striking ''December 31, 2003'' each place it appears and inserting ''December 31, 2025''.

(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking ''December 31, 2006'' and inserting ''December 31, 2025''.

(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by striking ''August 1, 2002'' each place it appears and inserting ''December 31, 2025''.

SEC. 603. MAXIMUM ASSESSMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended—

(1) in the second proviso of the third sentence of subsection b.(1)—

(A) by striking ''$63,000,000'' and inserting ''$95,800,000''; and

(B) by striking ''$10,000,000 in any 1 year'' and inserting ''$15,000,000 in any 1 year (subject to adjustment for inflation under subsection t.)''; and

(2) in subsection t.(1)—

(A) by inserting ''total and annual'' after ''amount of the maximum'';

(B) by striking ''the date of the enactment of the Price-Anderson Amendments Act of 1988'' and inserting ''August 20, 2003''; and

(C) in subparagraph (A), by striking ''such date of enactment'' and inserting ''August 20, 2003''.

SEC. 604. DEPARTMENT OF ENERGY LIABILITY LIMIT.

(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) (as amended by section 602(b)) is amended by striking paragraph (2) and inserting the following:

''(2) In an agreement of indemnification entered into under paragraph (1), the Secretary—

''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary determines 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 the liability above the amount of the financial protection required, in the amount of $10,000,000,000 (subject to adjustment for inflation under subsection t.) in the aggregate, for all persons indemnified in connection with the contract and for each nuclear incident, including such legal expenses incurred by 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)) (as amended by section 602(b)) is amended by striking paragraph (3) and inserting the following:

''(3) All agreements of indemnification under which the Department of Energy (or predecessor agencies) may be required to indemnify any person under this section shall be considered to be amended, on the date of enactment of the Price-Anderson Amendments Act of 2005, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.

(c) LIABILITY LIMIT.—Section 170 e.(1)(B) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(1)(B)) is amended—

(1) by striking ''the maximum amount of financial protection required under subsection b. or''; and

(2) by striking ''paragraph (3) of subsection d., whichever amount is more'' and inserting ''paragraph (2) of subsection d.''.

SEC. 605. INCIDENTS OUTSIDE THE UNITED STATES.

(a) AMOUNT OF INDEMNIFICATION.—Section 170 d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

(b) LIABILITY LIMIT.—Section 170 e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.

SEC. 606. REPORTS.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''December 31, 2021''.

SEC. 607. INFLATION ADJUSTMENT.

Section 170 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) (as amended by section 603(2)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2003, in accordance with the aggregate percentage change in the Consumer Price Index since—

''(A) that date, in the case of the first adjustment under this paragraph; or

''(B) the previous adjustment under this paragraph.''.

SEC. 608. TREATMENT OF MODULAR REACTORS.

Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) (as amended by section 603) is amended by adding at the end the following:

''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.

''(B) A combination of facilities referred to in subparagraph (A) is 2 or more facilities located at a single site, each of which has a rated capacity of not less than 100,000 electrical kilowatts and not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.

SEC. 609. APPLICABILITY.

The amendments made by sections 603, 604, and 605 do not apply to a nuclear incident that occurs before the date of enactment of this Act.

SEC. 610. CIVIL PENALTIES.

(a) REPEAL OF AUTOMATIC REMISSION.—Section 234A b.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.

(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a) is amended by striking subsection d. and inserting the following:

''d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties paid under subsection a. may not exceed the total amount of fees paid within any 1-year period (as determined by the Secretary) under the contract under which the violation occurs.

''(2) In this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures to the benefit of any natural person or for-profit artificial person.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) occurring under a contract entered into before the date of enactment of this Act.

Subtitle B—General Nuclear Matters

SEC. 621. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) is amended—

(1) by redesignating subsections a. and b. as subsection b. and a., respectively, and moving the subsections so as to appear in alphabetical order;

(2) in subsection a. (as redesignated by paragraph (1)), by striking ''a. As used in this section—'' and inserting the following:

''a. DEFINITIONS.—In this section—'';

(3) in subsection b. (as redesignated by paragraph (1), by striking ''b. The Commission'' and inserting the following:

''b. RESTRICTIONS ON EXPORTS.—Except as provided in subsection c., the Commission''; and

(4) by adding at the end the following:

''c. MEDICAL ISOTOPE PRODUCTION.—

''(1) DEFINITIONS.—In this subsection:

''(A) MEDICAL ISOTOPE.—The term 'medical isotope' includes Molybdenum 99, Iodine 131, Xenon 133, and other radioactive materials used to produce a radiopharmaceutical for diagnostic, therapeutic procedures or for research and development.

''(B) RADIOPHARMACEUTICAL.—The term 'radiopharmaceutical' means a radioactive isotope that—

''(i) contains byproduct material combined with chemical or biological material; and

''(ii) is designed to accumulate temporarily in a part of the body for—

''(I) therapeutic purposes; or

''(II) enabling the production of a useful image for use in a diagnosis of a medical condition.

''(C) RECIPIENT COUNTRY.—The term 'recipient country' means Canada, Belgium, France, Germany, and the Netherlands.

''(2) LICENSES.—The Commission may issue a license authorizing the export (including shipment to and use at intermediate and ultimate consignees specified in the license) to a recipient country of highly enriched uranium for medical isotope production if, in addition to any other requirements of this Act (except subsection b.), the Commission determines that—

''(A) a recipient country that supplies an assurance letter to the United States in connection with the consideration by the Commission of the export license application has informed the United States that any intermediate consignees and the ultimate consignee specified in the application are required to use the highly enriched uranium solely to produce medical isotopes; and

''(B) the highly enriched uranium for medical isotope production will be irradiated only in a reactor in a recipient country that—

''(i) uses an alternative nuclear reactor fuel; or

''(ii) is the subject of an agreement with the United States to convert to an alternative nuclear reactor fuel when alternative nuclear reactor fuel can be used in the reactor.

''(3) REVIEW OF PHYSICAL PROTECTION REQUIREMENTS.—

''(A) IN GENERAL.—The Commission shall review the adequacy of physical protection requirements that, as of the date of an application under paragraph (2), are applicable to the transportation and storage of highly enriched uranium for medical isotope production or control of residual material after irradiation and extraction of medical isotopes.

''(B) IMPOSITION OF ADDITIONAL REQUIREMENTS.—If the Commission determines that additional physical protection requirements are necessary (including a limit on the quantity of highly enriched uranium that may be contained in a single shipment), the Commission shall impose the requirements as license conditions or through other appropriate means.

''(4) FIRST REPORT TO CONGRESS.—

''(A) NAS STUDY.—The Secretary shall enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences shall conduct a study to determine—

''(i) the feasibility of procuring supplies of medical isotopes from commercial sources that do not use highly enriched uranium;

''(ii) the current and projected demand and availability of medical isotopes in regular current domestic use;

''(iii) the progress being made by the Department of Energy and other agencies and entities to eliminate all use of highly enriched uranium in reactor fuel, reactor targets, and medical isotope production facilities; and

''(iv) the potential cost differential in medical isotope production in the reactors and target processing facilities if the products were derived from production systems that do not involve fuels and targets with highly enriched uranium.

''(B) FEASIBILITY.—For the purpose of this subsection, the use of low enriched uranium to produce medical isotopes shall be determined to be feasible if—

''(i) low enriched uranium targets have been developed and demonstrated for use in the reactors and target processing facilities that produce significant quantities of medical isotopes to serve United States needs for such isotopes;

''(ii) sufficient quantities of medical isotopes are available from low enriched uranium targets and fuel to meet United States domestic needs; and

''(iii) the average anticipated total cost increase from production of medical isotopes in the facilities without use of highly enriched uranium is less than 10 percent.

''(C) REPORT BY THE SECRETARY.—Not later than 5 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that—

''(i) contains the findings of the National Academy of Sciences made in the study under subparagraph (A); and

''(ii) discloses the existence of any commitments from commercial producers to provide, not later than the date that is 4 years after the date of submission of the report, domestic requirements for medical isotopes without use of highly enriched uranium consistent with the feasibility criteria described in subparagraph (B).

''(5) SECOND REPORT TO CONGRESS.—If the National Academy of Sciences determines in the study under paragraph (4)(A) that the procurement of supplies of medical isotopes from commercial sources that do not use highly enriched uranium is feasible, but the Secretary is unable to report the existence of commitments under paragraph (4)(C)(ii), not later than the date that is 6 years after the date of enactment of the Energy Policy Act of 2005, the Secretary shall submit to Congress a report that describes options for developing domestic supplies of medical isotopes in quantities that are adequate to meet domestic demand without the use of highly enriched uranium consistent with the cost increase described in paragraph (4)(B)(iii).

''(6) CERTIFICATION.—At such time as commercial facilities that do not use highly enriched uranium are capable of meeting domestic requirements for medical isotopes, within the cost increase described in paragraph (4)(B)(iii) and without impairing the reliable supply of medical isotopes for domestic use, the Secretary shall submit to Congress a certification to that effect.

''(7) TERMINATION OF REVIEW.—After the Secretary submits a certification under paragraph (6), the Commission shall, by rule, terminate the review by the Commission of export license applications under this subsection.''.

SEC. 622. SAFE DISPOSAL OF GREATER-THAN-CLASS C RADIOACTIVE WASTE.

(a) RESPONSIBILITY FOR ACTIVITIES TO PROVIDE STORAGE FACILITY.—The Secretary shall provide to Congress official notification of the final designation of an entity within the Department to have the responsibility of completing activities needed to provide a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(b) REPORTS AND PLANS.—

(1) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) PLAN REGARDING COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with Congress, shall submit to Congress a report containing an estimate of the cost and a proposed schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) ANALYSIS OF ALTERNATIVES.—Before the Secretary makes a final decision on the disposal alternative or alternatives to be implemented, the Secretary shall—

(i) submit to Congress a report that describes all alternatives under consideration, including all information required in the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987; and

(ii) await action by Congress.

(2) SHORT-TERM PLAN FOR RECOVERY AND STORAGE.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive sealed sources that pose a security threat until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall address estimated cost, resource, and facility needs.

SEC. 623. PROHIBITION ON NUCLEAR EXPORTS TO COUNTRIES THAT SPONSOR TERRORISM.

(a) IN GENERAL.—Section 129 of the Atomic Energy Act of 1954 (42 U.S.C. 2158) is amended—

(1) by inserting ''a.'' before ''No nuclear materials and equipment''; and

(2) by adding at the end the following:

''b.(1)(A) Notwithstanding any other provision of law, including section 121, and except as provided in paragraphs (2) and (3), no nuclear materials and equipment or sensitive nuclear technology, including items and assistance authorized by section 57 b. and regulated under part 810 of title 10, Code of Federal Regulations (or a successor regulation), and nuclear-related items on the Commerce Control List maintained under part 774 of title 15 of the Code of Federal Regulations (or a successor regulation), shall be exported or reexported, or transferred or retransferred, whether directly or indirectly, and no Federal agency shall issue any license, approval, or authorization for the export or reexport, or transfer, or retransfer, whether directly or indirectly, of the items or assistance described in this paragraph to any country the government of which has been identified by the Secretary of State as engaged in state sponsorship of terrorist activities.

''(B) Countries described in subparagraph (A) specifically include any country the government of which has been determined by the Secretary of State to have repeatedly provided support for acts of international terrorism under—

''(i) section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a));

''(ii) section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)); or

''(iii) section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).

''(2) This subsection does not apply to exports, reexports, transfers, or retransfers of radiation monitoring technologies, surveillance equipment, seals, cameras, tamper-indication devices, nuclear detectors, monitoring systems, or equipment necessary to safely store, transport, or remove hazardous materials, whether such items, services, or

information are regulated by the Department of Energy, the Department of Commerce, or the Commission, except to the extent that the technologies, equipment, seals, cameras, devices, detectors, or systems are available for use in the design or construction of nuclear reactors or nuclear weapons.

''(3) The President may waive the application of paragraph (1) to a country if the President determines and certifies to Congress that—

''(A) the waiver will not result in any increased risk that the country receiving the waiver will acquire nuclear weapons, nuclear reactors, or any materials or components of nuclear weapons; and

''(B)(i) the government of the country has not within the preceding 12-month period willfully aided or abetted the international proliferation of nuclear explosive devices to individuals or groups or willfully aided and abetted an individual or groups in acquiring unsafeguarded nuclear materials;

''(ii) in the judgment of the President, the government of the country has provided adequate, verifiable assurances that the country will cease its support for acts of international terrorism;

''(iii) the waiver of paragraph (1) is in the vital national security interest of the United States; or

''(iv) the waiver of paragraph (1) is essential to prevent or respond to a serious radiological hazard in the country receiving the waiver that may or does threaten public health and safety.''.

(b) APPLICABILITY TO EXPORTS APPROVED FOR TRANSFER BUT NOT TRANSFERRED.—Subsection b. of section 129 of Atomic Energy Act of 1954 (as added by subsection (a)), shall apply with respect to exports that have been approved for transfer as of the date of enactment of this Act but have not yet been transferred as of that date.

SEC. 624. DECOMMISSIONING PILOT PROGRAM.

(a) PILOT PROGRAM.—The Secretary shall establish a decommissioning pilot program under which the Secretary shall decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas, in accordance with the decommissioning activities contained in the report of the Department relating to the reactor, dated August 31, 1998.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $16,000,000.

Subtitle C—Next Generation Nuclear Plant Project

SEC. 631. PROJECT ESTABLISHMENT.

(a) ESTABLISHMENT.—The Secretary shall establish a project to be known as the ''Next Generation Nuclear Plant Project'' (referred to in this subtitle as the ''Project'').

(b) CONTENT.—The Project shall consist of the research, development, design, construction, and operation of a prototype plant, including a nuclear reactor that—

(1) is based on research and development activities supported by the Generation IV Nuclear Energy Systems Initiative under section 942(d); and

(2) shall be used—

(A) to generate electricity;

(B) to produce hydrogen; or

(C) both to generate electricity and to produce hydrogen.

SEC. 632. PROJECT MANAGEMENT.

(a) DEPARTMENTAL MANAGEMENT.—

(1) IN GENERAL.—The Project shall be managed in the Department by the Office of Nuclear Energy, Science, and Technology.

(2) GENERATION IV NUCLEAR ENERGY SYSTEMS PROGRAM.—The Secretary may combine the Project with the Generation IV Nuclear Energy Systems Initiative.

(3) EXISTING DOE PROJECT MANAGEMENT EXPERTISE.—The Secretary may utilize capabilities for review of construction projects for advanced scientific facilities within the Office of Science to track the progress of the Project.

(b) LABORATORY MANAGEMENT.—

(1) LEAD LABORATORY.—The Idaho National Laboratory shall be the lead National Laboratory for the Project and shall collaborate with other National Laboratories, institutions of higher education, other research institutes, industrial researchers, and international researchers to carry out the Project.

(2) INDUSTRIAL PARTNERSHIPS.—

(A) IN GENERAL.—The Idaho National Laboratory shall organize a consortium of appropriate industrial partners that will carry out cost-shared research, development, design, and construction activities, and operate research facilities, on behalf of the Project.

(B) COST-SHARING.—Activities of industrial partners funded by the Project shall be cost-shared in accordance with section 1002.

(C) PREFERENCE.—Preference in determining the final structure of the consortium or any partnerships under this subtitle shall be given to a structure (including designating as a lead industrial partner an entity incorporated in the United States) that retains United States technological leadership in the Project while maximizing cost sharing opportunities and minimizing Federal funding responsibilities.

(3) PROTOTYPE PLANT SITING.—The prototype nuclear reactor and associated plant shall be sited at the Idaho National Laboratory in Idaho.

(4) REACTOR TEST CAPABILITIES.—The Project shall use, if appropriate, reactor test capabilities at the Idaho National Laboratory.

(5) OTHER LABORATORY CAPABILITIES.—The Project may use, if appropriate, facilities at other National Laboratories.

SEC. 633. PROJECT ORGANIZATION.

(a) MAJOR PROJECT ELEMENTS.—The Project shall consist of the following major program elements:

(1) High-temperature hydrogen production technology development and validation.

(2) Energy conversion technology development and validation.

(3) Nuclear fuel development, characterization, and qualification.

(4) Materials selection, development, testing, and qualification.

(5) Reactor and balance-of-plant design, engineering, safety analysis, and qualification.

(b) PROJECT PHASES.—The Project shall be conducted in the following phases:

(1) FIRST PROJECT PHASE.—A first project phase shall be conducted to—

(A) select and validate the appropriate technology under subsection (a)(1);

(B) carry out enabling research, development, and demonstration activities on technologies and components under paragraphs (2) through (4) of subsection (a);

(C) determine whether it is appropriate to combine electricity generation and hydrogen production in a single prototype nuclear reactor and plant; and

(D) carry out initial design activities for a prototype nuclear reactor and plant, including development of design methods and safety analytical methods and studies under subsection (a)(5)

(2) SECOND PROJECT PHASE.—A second project phase shall be conducted to—

(A) continue appropriate activities under paragraphs (1) though (5) of subsection (a);

(B) develop, through a competitive process, a final design for the prototype nuclear reactor and plant;

(C) apply for licenses to construct and operate the prototype nuclear reactor from the Nuclear Regulatory Commission; and

(D) construct and start up operations of the prototype nuclear reactor and its associated hydrogen or electricity production facilities.

(c) PROJECT REQUIREMENTS.—

(1) IN GENERAL.—The Secretary shall ensure that the Project is structured so as to maximize the technical interchange and transfer of technologies and ideas into the Project from other sources of relevant expertise, including—

(A) the nuclear power industry, including nuclear powerplant construction firms, particularly with respect to issues associated with plant design, construction, and operational and safety issues;

(B) the chemical processing industry, particularly with respect to issues relating to—

(i) the use of process energy for production of hydrogen; and

(ii) the integration of technologies developed by the Project into chemical processing environments; and

(C) international efforts in areas related to the Project, particularly with respect to hydrogen production technologies.

(2) INTERNATIONAL COLLABORATION.—

(A) IN GENERAL.—The Secretary shall seek international cooperation, participation, and financial contributions for the Project.

(B) ASSISTANCE FROM INTERNATIONAL PARTNERS.—The Secretary, through the Idaho National Laboratory, may contract for assistance from specialists or facilities from member countries of the Generation IV International Forum, the Russian Federation, or other international partners if the specialists or facilities provide access to cost-effective and relevant skills or test capabilities.

(C) PARTNER NATIONS.—The Project may involve demonstration of selected project objectives in a partner country.

(D) GENERATION IV INTERNATIONAL FORUM.—The Secretary shall ensure that international activities of the Project are coordinated with the Generation IV International Forum.

(3) REVIEW BY NUCLEAR ENERGY RESEARCH ADVISORY COMMITTEE.—

(A) IN GENERAL.—The Nuclear Energy Research Advisory Committee of the Department (referred to in this paragraph as the ''NERAC'') shall—

(i) review all program plans for the Project and all progress under the Project on an ongoing basis; and

(ii) ensure that important scientific, technical, safety, and program management issues receive attention in the Project and by the Secretary.

(B) ADDITIONAL EXPERTISE.—The NERAC shall supplement the expertise of NERAC or appoint subpanels to incorporate into the review by NERAC the relevant sources of expertise described under paragraph (1).

(C) INITIAL REVIEW.—Not later than 180 days after the date of enactment of this Act, the NERAC shall—

(i) review existing program plans for the Project in light of the recommendations of the document entitled ''Design Features and Technology Uncertainties for the Next Generation Nuclear Plant,'' dated June 30, 2004; and

(ii) address any recommendations of the document not incorporated in program plans for the Project.

(D) FIRST PROJECT PHASE REVIEW.—On a determination by the Secretary that the appropriate activities under the first project phase under subsection (b)(1) are nearly complete, the Secretary shall request the NERAC to conduct a comprehensive review of the Project and to report to the Secretary the recommendation of NERAC concerning

whether the Project is ready to proceed to the second project phase under subsection (b)(2).

(E) TRANSMITTAL OF REPORTS TO CONGRESS.—Not later than 60 days after receiving any report from the NERAC related to the Project, the Secretary shall submit to the appropriate committees of the Senate and the House of Representatives a copy of the report, along with any additional views of the Secretary that the Secretary may consider appropriate.

SEC. 634. NUCLEAR REGULATORY COMMISSION.

(a) IN GENERAL.—In accordance with section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842), the Nuclear Regulatory Commission shall have licensing and regulatory authority for any reactor authorized under this subtitle.

(b) LICENSING STRATEGY.—Not later than 3 years after the date of enactment of this Act, the Secretary and the Chairman of the Nuclear Regulatory Commission shall jointly submit to the appropriate committees of the Senate and the House of Representatives a licensing strategy for the prototype nuclear reactor, including—

(1) a description of ways in which current licensing requirements relating to light-water reactors need to be adapted for the types of prototype nuclear reactor being considered by the Project;

(2) a description of analytical tools that the Nuclear Regulatory Commission will have to develop to independently verify designs and performance characteristics of components, equipment, systems, or structures associated with the prototype nuclear reactor;

(3) other research or development activities that may be required on the part of the Nuclear Regulatory Commission in order to review a license application for the prototype nuclear reactor; and

(4) an estimate of the budgetary requirements associated with the licensing strategy.

(c) ONGOING INTERACTION.—The Secretary shall seek the active participation of the Nuclear Regulatory Commission throughout the duration of the Project to—

(1) avoid design decisions that will compromise adequate safety margins in the design of the reactor or impair the accessibility of nuclear safety-related components of the prototype reactor for inspection and maintenance;

(2) develop tools to facilitate inspection and maintenance needed for safety purposes; and

(3) develop risk-based criteria for any future commercial development of a similar reactor architectures.

SEC. 635. PROJECT TIMELINES AND AUTHORIZATION OF APPROPRIATIONS.

(a) TARGET DATE TO COMPLETE THE FIRST PROJECT PHASE.—Not later than September 30, 2011—

(1) the Secretary shall select the technology to be used by the Project for high-temperature hydrogen production and the initial design parameters for the prototype nuclear plant; or

(2) submit to Congress a report establishing an alternative date for making the selection.

(b) DESIGN COMPETITION FOR SECOND PROJECT PHASE.—

(1) IN GENERAL.—The Secretary, acting through the Idaho National Laboratory, shall fund not more than 4 teams for not more than 2 years to develop detailed proposals for competitive evaluation and selection of a single proposal for a final design of the prototype nuclear reactor.

(2) SYSTEMS INTEGRATION.—The Secretary may structure Project activities in the second project phase to use the lead industrial partner of the competitively selected design under paragraph (1) in a systems integration role for final design and construction of the Project.

(c) TARGET DATE TO COMPLETE PROJECT CONSTRUCTION.—Not later than September 30, 2021—

(1) the Secretary shall complete construction and begin operations of the prototype nuclear reactor and associated energy or hydrogen facilities; or

(2) submit to Congress a report establishing an alternative date for completion.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for research and construction activities under this subtitle (including for transfer to the Nuclear Regulatory Commission for activities under section 634 as appropriate)—

(1) $1,250,000,000 for the period of fiscal years 2006 through 2015; and

(2) such sums as are necessary for each of fiscal years 2016 through 2021.

TITLE VII—VEHICLES AND FUELS

Subtitle A—Existing Programs

SEC. 701. USE OF ALTERNATIVE FUELS BY DUAL-FUELED VEHICLES.

Section 400AA(a)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6374(a)(3)) is amended by striking subparagraph (E) and inserting the following:

''(E)(i) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that an agency qualifies for a waiver of the requirements of this section for vehicles operated by the agency in a particular geographic area in which—

''(I) the alternative fuel otherwise required to be used in the vehicle is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency; or

''(II) the cost of the alternative fuel otherwise required to be used in the vehicle is unreasonably more expensive compared to gasoline, as certified to the Secretary by the head of the agency.

''(ii) The Secretary shall monitor compliance with this subparagraph by all fleets receiving a waiver.

''(iii) The Secretary shall report annually to Congress on the extent to which the requirements of this subparagraph are being achieved, including information on annual reductions achieved from the use of petroleum-based fuels and the problems, if any, encountered in acquiring alternative fuels.''.

SEC. 702. ALTERNATIVE FUEL USE BY LIGHT DUTY VEHICLES.

Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended by adding at the end the following:

''SEC. 516. TERMINATION OF AUTHORITY.

''The authority provided by sections 501, 507, and 508 terminates the earlier of—

''(1) September 30, 2015; or

''(2) the date, the Secretary has established, by rule, a replacement program that achieves the goals of those sections.''.

SEC. 703. INCREMENTAL COST ALLOCATION.

Section 303(c) of the Energy Policy Act of 1992 (42 U.S.C. 13212(c)) is amended by striking ''may'' and inserting ''shall''.

SEC. 704. ALTERNATIVE COMPLIANCE AND FLEXIBILITY.

(a) ALTERNATIVE COMPLIANCE.—Title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.) is amended—

(1) by redesignating section 514 (42 U.S.C. 13264) as section 515; and

(2) by inserting after section 513 (42 U.S.C. 13263) the following:

''SEC. 514. ALTERNATIVE COMPLIANCE.

''(a) APPLICATION FOR WAIVER.—Any covered person subject to section 501 and any State subject to section 507(o) may petition the Secretary for a waiver of the applicable requirements of section 501 or 507(o).

''(b) GRANT OF WAIVER.—The Secretary shall grant a waiver of the requirements of section 501 or 507(o) on a showing that the fleet owned, operated, leased, or otherwise controlled by the State or covered person—

''(1) will achieve a reduction in the annual consumption of petroleum fuels by the fleet equal to—

''(A) the reduction in consumption of petroleum that would result from 100 percent cumulative compliance with the fuel use requirements of section 501; or

''(B) in the case of an entity covered under section 507(o), a reduction equal to the annual consumption by the State entity of alternative fuels if all of the cumulative alternative fuel vehicles of the State entity given credit under section 508 were to use alternative fuel 100 percent of the time; and

''(2) is in compliance with all applicable vehicle emission standards established by the Administrator of the Environmental Protection Agency under the Clean Air Act (42 U.S.C. 7401 et seq.).

''(c) REVOCATION OF WAIVER.—The Secretary shall revoke any waiver granted under this section if the State or covered person fails to comply with subsection (b).''.

(b) CREDITS.—Section 508(a) of the Energy Policy Act of 1992 (42 U.S.C. 13258(a)) is amended—

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

''(1) The Secretary''; and

(2) by adding at the end the following:

''(2) Not later than January 31, 2007, the Secretary shall—

''(A) allocate credit in an amount to be determined by the Secretary for—

''(i) acquisition of—

''(I) a light-duty hybrid electric vehicle;

''(II) a plug-in hybrid electric vehicle;

''(III) a fuel cell electric vehicle;

''(IV) a medium- or heavy-duty hybrid electric vehicle;

''(V) a neighborhood electric vehicle; or

''(VI) a medium- or heavy-duty dedicated vehicle; and

''(ii) investment in qualified alternative fuel infrastructure or nonroad equipment, as determined by the Secretary; and

''(B) allocate more than 1, but not to exceed 5, credits for investment in an emerging technology relating to any vehicle described in subparagraph (A) to encourage—

''(i) a reduction in petroleum demand;

''(ii) technological advancement; and

''(iii) environmental safety.''.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Energy Policy Act of 1992 (42 U.S.C. prec. 13201) is amended by striking the item relating to section 514 and inserting the following:

''Sec. 514. Alternative compliance.
''Sec. 515. Authorization of appropriations.
''Sec. 516. Termination of authority.''.

SEC. 705. REPORT CONCERNING COMPLIANCE WITH ALTERNATIVE FUELED VEHICLE PURCHASING REQUIREMENTS.

Section 310(b)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13218(b)(1)) is amended by striking ''1 year after the date of enactment of this subsection'' and inserting ''February 15, 2006''.

Subtitle B—Automobile Efficiency

SEC. 711. AUTHORIZATION OF APPROPRIATIONS FOR IMPLEMENTATION AND ENFORCEMENT OF FUEL ECONOMY STANDARDS.

In addition to any other funds authorized by law, there is authorized to be appropriated to the National Highway Traffic Safety Administration to carry out its obligations with respect to average fuel economy

standards $2,000,000 for each of fiscal years 2006 through 2010.

Subtitle C—Miscellaneous

SEC. 721. RAILROAD EFFICIENCY.

(a) ESTABLISHMENT.—The Secretary shall (in cooperation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency) establish a cost-shared, public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers and equipment suppliers, and the Association of American Railroads, to develop and demonstrate railroad locomotive technologies that increase fuel economy, reduce emissions, and lower costs of operation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section—

(1) $25,000,000 for fiscal year 2006;

(2) $35,000,000 for fiscal year 2007; and

(3) $50,000,000 for fiscal year 2008.

SEC. 722. CONSERVE BY BICYCLING PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''program'' means the Conserve by Bicycling Program established by subsection (b).

(2) SECRETARY.—The term ''Secretary'' means the Secretary of Transportation.

(b) ESTABLISHMENT.—There is established within the Department of Transportation a program to be known as the ''Conserve by Bicycling Program''.

(c) PROJECTS.—

(1) IN GENERAL.—In carrying out the program, the Secretary shall establish not more than 10 pilot projects that are—

(A) dispersed geographically throughout the United States; and

(B) designed to conserve energy resources by encouraging the use of bicycles in place of motor vehicles.

(2) REQUIREMENTS.—A pilot project described in paragraph (1) shall—

(A) use education and marketing to convert motor vehicle trips to bicycle trips;

(B) document project results and energy savings (in estimated units of energy conserved);

(C) facilitate partnerships among interested parties in at least 2 of the fields of—

(i) transportation;

(ii) law enforcement;

(iii) education;

(iv) public health;

(v) environment; and

(vi) energy;

(D) maximize bicycle facility investments;

(E) demonstrate methods that may be used in other regions of the United States; and

(F) facilitate the continuation of ongoing programs that are sustained by local resources.

(3) COST SHARING.—At least 20 percent of the cost of each pilot project described in paragraph (1) shall be provided from non-Federal sources.

(d) ENERGY AND BICYCLING RESEARCH STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into a contract with the National Academy of Sciences for, and the National Academy of Sciences shall conduct and submit to Congress a report on, a study on the feasibility of converting motor vehicle trips to bicycle trips.

(2) COMPONENTS.—The study shall—

(A) document the results or progress of the pilot projects under subsection (c);

(B) determine the type and duration of motor vehicle trips that people in the United States may feasibly make by bicycle, taking into consideration factors such as—

(i) weather;

(ii) land use and traffic patterns;

(iii) the carrying capacity of bicycles; and

(iv) bicycle infrastructure;

(C) determine any energy savings that would result from the conversion of motor vehicle trips to bicycle trips;

(D) include a cost-benefit analysis of bicycle infrastructure investments; and

(E) include a description of any factors that would encourage more motor vehicle trips to be replaced with bicycle trips.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $6,200,000, to remain available until expended, of which—

(1) $5,150,000 shall be used to carry out pilot projects described in subsection (c);

(2) $300,000 shall be used by the Secretary to coordinate, publicize, and disseminate the results of the program; and

(3) $750,000 shall be used to carry out subsection (d).

SEC. 723. REDUCTION OF ENGINE IDLING OF HEAVY-DUTY VEHICLES.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term ''advanced truck stop electrification system'' means a stationary system that delivers heat, air conditioning, electricity, and communications, and is capable of providing verifiable and auditable evidence of use of those services, to a heavy-duty vehicle and any occupants of the heavy-duty vehicle without relying on components mounted onboard the heavy-duty vehicle for delivery of those services.

(3) AUXILIARY POWER UNIT.—The term ''auxiliary power unit'' means an integrated system that—

(A) provides heat, air conditioning, engine warming, and electricity to the factory-installed components on a heavy-duty vehicle as if the main drive engine of the heavy-duty vehicle were running; and

(B) is certified by the Administrator under part 89 of title 40, Code of Federal Regulations (or any successor regulation), as meeting applicable emission standards.

(4) HEAVY-DUTY VEHICLE.—The term ''heavy-duty vehicle'' means a vehicle that—

(A) has a gross vehicle weight rating greater than 12,500 pounds; and

(B) is powered by a diesel engine.

(5) IDLE REDUCTION TECHNOLOGY.—The term ''idle reduction technology'' means an advanced truck stop electrification system, auxiliary power unit, or other device or system of devices that—

(A) is used to reduce long-duration idling of a heavy-duty vehicle; and

(B) allows for the main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle to be shut down.

(6) LONG-DURATION IDLING.—

(A) IN GENERAL.—The term ''long-duration idling'' means the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle, for a period greater than 15 consecutive minutes, at a time at which the main drive engine is not engaged in gear.

(B) EXCLUSIONS.—The term ''long-duration idling'' does not include the operation of a main drive engine or auxiliary refrigeration engine of a heavy-duty vehicle during a routine stoppage associated with traffic movement or congestion.

(b) IDLE REDUCTION TECHNOLOGY BENEFITS, PROGRAMS, AND STUDIES.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall—

(A)(i) commence a review of the mobile source air emission models of the Environmental Protection Agency used under the Clean Air Act (42 U.S.C. 7401 et seq.) to determine whether the models accurately reflect the emissions resulting from long-duration idling of heavy-duty vehicles and other vehicles and engines; and

(ii) update those models as the Administrator determines to be appropriate; and

(B)(i) commence a review of the emission reductions achieved by the use of idle reduction technology; and

(ii) complete such revisions of the regulations and guidance of the Environmental Protection Agency as the Administrator determines to be appropriate.

(2) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(A) complete the reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1); and

(B) prepare and make publicly available 1 or more reports on the results of the reviews.

(3) DISCRETIONARY INCLUSIONS.—The reviews under subparagraphs (A)(i) and (B)(i) of paragraph (1) and the reports under paragraph (2)(B) may address the potential fuel savings resulting from use of idle reduction technology.

(4) IDLE REDUCTION DEPLOYMENT PROGRAM.—

(A) ESTABLISHMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall establish a program to support deployment of idle reduction technology.

(ii) PRIORITY.—The Administrator shall give priority to the deployment of idle reduction technology based on beneficial effects on air quality and ability to lessen the emission of criteria air pollutants.

(B) FUNDING.—

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out subparagraph (A)—

(I) $19,500,000 for fiscal year 2006;

(II) $30,000,000 for fiscal year 2007; and

(III) $45,000,000 for fiscal year 2008.

(ii) COST SHARING.—Subject to clause (iii), the Administrator shall require at least 50 percent of the costs directly and specifically related to any project under this section to be provided from non-Federal sources.

(iii) NECESSARY AND APPROPRIATE REDUCTIONS.—The Administrator may reduce the non-Federal requirement under clause (ii) if the Administrator determines that the reduction is necessary and appropriate to meet the objectives of this section.

(5) IDLING LOCATION STUDY.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Transportation, shall commence a study to analyze all locations at which heavy-duty vehicles stop for long-duration idling, including—

(i) truck stops;

(ii) rest areas;

(iii) border crossings;

(iv) ports;

(v) transfer facilities; and

(vi) private terminals.

(B) DEADLINE FOR COMPLETION.—Not later than 180 days after the date of enactment of this Act, the Administrator shall—

(i) complete the study under subparagraph (A); and

(ii) prepare and make publicly available 1 or more reports of the results of the study.

(c) VEHICLE WEIGHT EXEMPTION.—Section 127(a) of title 23, United States Code, is amended—

(1) by designating the first through eleventh sentences as paragraphs (1) through (11), respectively; and

(2) by adding at the end the following:

''(12) HEAVY DUTY VEHICLES.—

''(A) IN GENERAL.—Subject to subparagraphs (B) and (C), in order to promote reduction of fuel use and emissions because of engine idling, the maximum gross vehicle weight limit and the axle weight limit for any heavy-duty vehicle equipped with an idle reduction technology shall be increased by a quantity necessary to compensate for the additional weight of the idle reduction system.

''(B) MAXIMUM WEIGHT INCREASE.—The weight increase under subparagraph (A) shall be not greater than 250 pounds.

''(C) PROOF.—On request by a regulatory agency or law enforcement agency, the vehicle operator shall provide proof (through demonstration or certification) that—

''(i) the idle reduction technology is fully functional at all times; and

''(ii) the 250-pound gross weight increase is not used for any purpose other than the use of idle reduction technology described in subparagraph (A).''.

SEC. 724. BIODIESEL ENGINE TESTING PROJECT.

(a) DEFINITION OF BIODIESEL.—In this section, the term ''biodiesel'' means a diesel fuel substitute produced from nonpetroleum renewable resources that meets—

(1) the registration requirements for fuels and fuel additives established under section 211 of the Clean Air Act (42 U.S.C. 7545); and

(2) the American Society for Testing and Materials Standard D6751–02a ''Standard Specification for Biodiesel Fuel (B100) Blend Stock for Distillate Fuels''.

(b) PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate a project, in partnership with diesel engine, diesel fuel injection system, and diesel vehicle manufacturers and diesel and biodiesel fuel providers, to provide biodiesel testing in advanced diesel engine and fuel system technology.

(c) SCOPE.—The project shall provide for testing to determine the impact of biodiesel on current and future emission control technologies, with emphasis on—

(1) the impact of biodiesel on emissions warranty, in-use liability, and anti-tampering provisions;

(2) the impact of long-term use of biodiesel on engine operations;

(3) the options for optimizing those technologies for both emissions and performance when switching between biodiesel and diesel fuel; and

(4) the impact of using biodiesel in those fueling systems and engines when used as a blend with diesel fuel containing a maximum of 15-parts-per-million sulfur content, as mandated by the Administrator of the Environmental Protection Agency during 2006.

(d) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the project, including—

(1) a comprehensive analysis of impacts from biodiesel on engine operation for both existing and expected future diesel technologies; and

(2) recommendations for ensuring optimal emissions reductions and engine performance with biodiesel.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2006 through 2008.

Subtitle D—Federal and State Procurement

SEC. 731. DEFINITIONS.

In this subtitle:

(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.

(2) FUEL CELL.—The term ''fuel cell'' means a device that directly converts the chemical energy of a fuel and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(4) STATIONARY; PORTABLE.—The terms ''stationary'' and ''portable'', when used in reference to a fuel cell, include—

(A) continuous electric power; and

(B) backup electric power.

(5) TASK FORCE.—The term ''Task Force'' means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as amended by section 801).

(6) TECHNICAL ADVISORY COMMITTEE.—The term ''Technical Advisory Committee'' means the independent Technical Advisory Committee selected under section 102(d) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as added by section 801).

SEC. 732. FEDERAL AND STATE PROCUREMENT OF FUEL CELL VEHICLES AND HYDROGEN ENERGY SYSTEMS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of fuel cell vehicles and hydrogen energy systems;

(2) to support development of technologies relating to fuel cell vehicles, public refueling stations, and hydrogen energy systems; and

(3) to require the Federal government, which is the largest single user of energy in the United States, to adopt those technologies as soon as practicable after the technologies are developed, in conjunction with private industry partners.

(b) FEDERAL LEASES AND PURCHASES.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Not later than January 1, 2010, the head of any Federal agency that uses a light-duty or heavy-duty vehicle fleet shall lease or purchase fuel cell vehicles and hydrogen energy systems to meet any applicable energy savings goal described in subsection (c).

(B) LEARNING DEMONSTRATION VEHICLES.—The Secretary may lease or purchase appropriate vehicles developed under section 201 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (as added by section 801) to meet the requirement in subparagraph (A).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay to Federal agencies (or share the cost under interagency agreements) the difference in cost between—

(i) the cost to the agencies of leasing or purchasing fuel cell vehicles and hydrogen energy systems under paragraph (1); and

(ii) the cost to the agencies of a feasible alternative to leasing or purchasing fuel cell vehicles and hydrogen energy systems, as determined by the Secretary.

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a fuel cell vehicle or hydrogen energy system; or

(ii) a cost-effective management structure of the lease of a fuel cell vehicle or hydrogen energy system.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable fuel cell vehicle or hydrogen energy system in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee.

(c) ENERGY SAVINGS GOALS.—

(1) IN GENERAL.—

(A) REGULATIONS.—Not later than December 31, 2006, the Secretary shall—

(i) in cooperation with the Task Force, promulgate regulations for the period of 2008 through 2010 that extend and augment energy savings goals for each Federal agency, in accordance with any Executive order issued after March 2000; and

(ii) promulgate regulations to expand the minimum Federal fleet requirement and credit allowances for fuel cell vehicle systems under section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212).

(B) REVIEW, EVALUATION, AND NEW REGULATIONS.—Not later than December 31, 2010, the Secretary shall—

(i) review the regulations promulgated under subparagraph (A);

(ii) evaluate any progress made toward achieving energy savings by Federal agencies; and

(iii) promulgate new regulations for the period of 2011 through 2015 to achieve additional energy savings by Federal agencies relating to technical and cost-performance standards.

(2) OFFSETTING ENERGY SAVINGS GOALS.—An agency that leases or purchases a fuel cell vehicle or hydrogen energy system in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal of the agency.

(d) COOPERATIVE PROGRAM WITH STATE AGENCIES.—

(1) IN GENERAL.—The Secretary may establish a cooperative program with State agencies managing motor vehicle fleets to encourage purchase of fuel cell vehicles by the agencies.

(2) INCENTIVES.—In carrying out the cooperative program, the Secretary may offer incentive payments to a State agency to assist with the cost of planning, differential purchases, and administration.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $15,000,000 for fiscal year 2008;

(2) $25,000,000 for fiscal year 2009;

(3) $65,000,000 for fiscal year 2010; and

(4) such sums as are necessary for each of fiscal years 2011 through 2015.

SEC. 733. FEDERAL PROCUREMENT OF STATIONARY, PORTABLE, AND MICRO FUEL CELLS.

(a) PURPOSES.—The purposes of this section are—

(1) to stimulate acceptance by the market of stationary, portable, and micro fuel cells; and

(2) to support development of technologies relating to stationary, portable, and micro fuel cells.

(b) FEDERAL LEASES AND PURCHASES.—

(1) IN GENERAL.—Not later than January 1, 2006, the head of any Federal agency that uses electrical power from stationary, portable, or microportable devices shall lease or purchase a stationary, portable, or micro fuel cell to meet any applicable energy savings goal described in subsection (c).

(2) COSTS OF LEASES AND PURCHASES.—

(A) IN GENERAL.—The Secretary, in cooperation with the Task Force and the Technical Advisory Committee, shall pay the cost to Federal agencies (or share the cost under interagency agreements) of leasing or purchasing stationary, portable, and micro fuel cells under paragraph (1).

(B) COMPETITIVE COSTS AND MANAGEMENT STRUCTURES.—In carrying out subparagraph (A), the Secretary, in consultation with the

agency, may use the General Services Administration or any commercial vendor to ensure—

(i) a cost-effective purchase of a stationary, portable, or micro fuel cell; or

(ii) a cost-effective management structure of the lease of a stationary, portable, or micro fuel cell.

(3) EXCEPTION.—

(A) IN GENERAL.—If the Secretary determines that the head of an agency described in paragraph (1) cannot find an appropriately efficient and reliable stationary, portable, or micro fuel cell in accordance with paragraph (1), that agency shall be excepted from compliance with paragraph (1).

(B) CONSIDERATION.—In making a determination under subparagraph (A), the Secretary shall consider—

(i) the needs of the agency; and

(ii) an evaluation performed by—

(I) the Task Force; or

(II) the Technical Advisory Committee of the Task Force.

(c) ENERGY SAVINGS GOALS.—An agency that leases or purchases a stationary, portable, or micro fuel cell in accordance with subsection (b)(1) may use that lease or purchase to count toward an energy savings goal described in section 732(c)(1) that is applicable to the agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section—

(1) $20,000,000 for fiscal year 2006;

(2) $50,000,000 for fiscal year 2007;

(3) $75,000,000 for fiscal year 2008;

(4) $100,000,000 for fiscal year 2009;

(5) $100,000,000 for fiscal year 2010; and

(6) such sums as are necessary for each of fiscal years 2011 through 2015.

TITLE VIII—HYDROGEN

SEC. 801. HYDROGEN RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

The Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

''(a) SHORT TITLE.—This Act may be cited as the 'Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990'.

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

"SEC. 2. PURPOSES.

''The purposes of this Act are—

''(1) to enable and promote comprehensive development, demonstration, and commercialization of hydrogen and fuel cell technology in partnership with industry;

''(2) to make critical public investments in building strong links to private industry, institutions of higher education, National Laboratories, and research institutions to expand innovation and industrial growth;

''(3) to build a mature hydrogen economy that creates fuel diversity in the massive transportation sector of the United States;

''(4) to sharply decrease the dependency of the United States on imported oil, eliminate most emissions from the transportation sector, and greatly enhance our energy security; and

''(5) to create, strengthen, and protect a sustainable national energy economy.

"SEC. 3. DEFINITIONS.

''In this Act:

''(1) DEPARTMENT.—The term 'Department' means the Department of Energy.

''(2) FUEL CELL.—The term 'fuel cell' means a device that directly converts the chemical energy of a fuel, which is supplied from an external source, and an oxidant into electricity by electrochemical processes occurring at separate electrodes in the device.

''(3) HEAVY-DUTY VEHICLE.—The term 'heavy-duty vehicle' means a motor vehicle that—

''(A) is rated at more than 8,500 pounds gross vehicle weight;

''(B) has a curb weight of more than 6,000 pounds; or

''(C) has a basic vehicle frontal area in excess of 45 square feet.

''(4) INFRASTRUCTURE.—The term 'infrastructure' means the equipment, systems, or facilities used to produce, distribute, deliver, or store hydrogen (except for onboard storage).

''(5) LIGHT-DUTY VEHICLE.—The term 'light-duty vehicle' means a motor vehicle that is rated at 8,500 or less pounds gross vehicle weight.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(7) STATIONARY; PORTABLE.—The terms 'stationary' and 'portable', when used in reference to a fuel cell, include—

''(A) continuous electric power; and

''(B) backup electric power.

''(8) TASK FORCE.—The term 'Task Force' means the Hydrogen and Fuel Cell Technical Task Force established under section 102(a).

''(9) TECHNICAL ADVISORY COMMITTEE.—The term 'Technical Advisory Committee' means the independent Technical Advisory Committee of the Task Force selected under section 102(d).

"TITLE I—HYDROGEN AND FUEL CELLS

"SEC. 101. HYDROGEN AND FUEL CELL TECHNOLOGY RESEARCH AND DEVELOPMENT.

''(a) IN GENERAL.—The Secretary, in consultation with other Federal agencies and the private sector, shall conduct a research and development program on technologies relating to the production, purification, distribution, storage, and use of hydrogen energy, fuel cells, and related infrastructure.

''(b) GOAL.—The goal of the program shall be to demonstrate and commercialize the use of hydrogen for transportation (in light-duty vehicles and heavy-duty vehicles), utility, industrial, commercial and residential applications.

''(c) FOCUS.—In carrying out activities under this section, the Secretary shall focus on factors that are common to the development of hydrogen infrastructure and the supply of vehicle and electric power for critical consumer and commercial applications, and that achieve continuous technical evolution and cost reduction, particularly for hydrogen production, the supply of hydrogen, storage of hydrogen, and end uses of hydrogen that—

''(1) steadily increase production, distribution, and end use efficiency and reduce lifecycle emissions;

''(2) resolve critical problems relating to catalysts, membranes, storage, lightweight materials, electronic controls, and other problems that emerge from research and development;

''(3) enhance sources of renewable fuels and biofuels for hydrogen production; and

''(4) enable widespread use of distributed electricity generation and storage.

''(d) PUBLIC EDUCATION AND RESEARCH.—In carrying out this section, the Secretary shall support enhanced public education and research conducted at institutions of higher education in fundamental sciences, application design, and systems concepts (including education and research relating to materials, subsystems, manufacturability, maintenance, and safety) relating to hydrogen and fuel cells.

''(e) COST SHARING.—The costs of carrying out projects and activities under this section shall be shared in accordance with section 1002 of the Energy Policy Act of 2005.

"SEC. 102. TASK FORCE.

''(a) ESTABLISHMENT.—The Secretary, in consultation with the Director of the Office of Science and Technology Policy, shall establish an interagency Task Force, to be known as the 'Hydrogen and Fuel Cell Technical Task Force' to advise the Secretary in carrying out programs under this Act.

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Task Force shall be comprised of such representatives of the Office of Science and Technology Policy, the Environmental Protection Agency, the Department of Transportation, the Department of Defense, the National Aeronautics and Space Administration, and such other members, as the Secretary, in consultation with the Director of the Office of Science and Technology Policy, determines to be appropriate.

''(2) VOTING.—A member of the Task Force that does not represent a Federal agency shall serve on the Task Force only in a nonvoting, advisory capacity.

''(c) DUTIES.—The Task Force shall review and make any necessary recommendations to the Secretary on implementation and conduct of programs under this Act.

''(d) TECHNICAL ADVISORY COMMITTEE.—

''(1) IN GENERAL.—The Secretary shall select such number of members as the Secretary considers to be appropriate to form an independent, nonpolitical Technical Advisory Committee.

''(2) MEMBERSHIP.—Each member of the Technical Advisory Committee shall have scientific, technical, or industrial expertise, as determined by the Secretary.

''(3) DUTIES.—The Technical Advisory Committee shall provide technical advice and assistance to the Task Force and the Secretary.

"SEC. 103. TECHNOLOGY TRANSFER.

''In carrying out this Act, the Secretary shall carry out programs that—

''(1) provide for the transfer of critical hydrogen and fuel cell technologies to the private sector;

''(2) accelerate wider application of those technologies in the global market;

''(3) foster the exchange of generic, nonproprietary information; and

''(4) assess technical and commercial viability of technologies relating to the production, distribution, storage, and use of hydrogen energy and fuel cells.

"SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

''(a) HYDROGEN SUPPLY.—There are authorized to be appropriated to carry out projects and activities relating to hydrogen production, storage, distribution and dispensing, transport, education and coordination, and technology transfer under this title—

''(1) $160,000,000 for fiscal year 2006;
''(2) $200,000,000 for fiscal year 2007;
''(3) $220,000,000 for fiscal year 2008;
''(4) $230,000,000 for fiscal year 2009;
''(5) $250,000,000 for fiscal year 2010; and
''(6) such sums as are necessary for each of fiscal years 2011 through 2015.

''(b) FUEL CELL TECHNOLOGIES.—There are authorized to be appropriated to carry out projects and activities relating to fuel cell technologies under this title—

''(1) $150,000,000 for fiscal year 2006;
''(2) $160,000,000 for fiscal year 2007;
''(3) $170,000,000 for fiscal year 2008;
''(4) $180,000,000 for fiscal year 2009;
''(5) $200,000,000 for fiscal year 2010; and
''(6) such sums as are necessary for each of fiscal years 2011 through 2015.

"TITLE II—HYDROGEN AND FUEL CELL DEMONSTRATION

"SEC. 201. HYDROGEN SUPPLY AND FUEL CELL DEMONSTRATION PROGRAM.

''(a) IN GENERAL.—The Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall carry out a program to demonstrate developmental hydrogen and fuel cell systems for mobile, portable, and stationary uses, using improved versions of the learning demonstrations program concept of the Department including demonstrations involving—

''(1) light-duty vehicles;
''(2) heavy-duty vehicles;
''(3) fleet vehicles;
''(4) specialty industrial and farm vehicles; and
''(5) commercial and residential portable, continuous, and backup electric power generation.

''(b) OTHER DEMONSTRATION PROGRAMS.—To develop widespread hydrogen supply and use options, and assist evolution of technology, the Secretary shall—

''(1) carry out demonstrations of evolving hydrogen and fuel cell technologies in national parks, remote island areas, and on Indian tribal land, as selected by the Secretary;

''(2) in accordance with any code or standards developed in a region, fund prototype, pilot fleet, and infrastructure regional hydrogen supply corridors along the interstate highway system in varied climates across the United States; and

''(3) fund demonstration programs that explore the use of hydrogen blends, hybrid hydrogen, and hydrogen reformed from renewable agricultural fuels, including the use of hydrogen in hybrid electric, heavier duty, and advanced internal combustion-powered vehicles.

''(c) SYSTEM DEMONSTRATIONS.—

''(1) IN GENERAL.—As a component of the demonstration program under this section, the Secretary shall provide grants, on a cost share basis as appropriate, to eligible entities (as determined by the Secretary) for use in—

''(A) devising system design concepts that provide for the use of advanced composite vehicles in programs under section 732 of the Energy Policy Act of 2005 that—

''(i) have as a primary goal the reduction of drive energy requirements;

''(ii) after 2010, add another research and development phase to the vehicle and infrastructure partnerships developed under the learning demonstrations program concept of the Department; and

''(iii) are managed through an enhanced FreedomCAR program within the Department that encourages involvement in cost-shared projects by manufacturers and governments; and

''(B) designing a local distributed energy system that—

''(i) incorporates renewable hydrogen production, off-grid electricity production, and fleet applications in industrial or commercial service;

''(ii) integrates energy or applications described in clause (i), such as stationary, portable, micro, and mobile fuel cells, into a high-density commercial or residential building complex or agricultural community; and

''(iii) is managed in cooperation with industry, State, tribal, and local governments, agricultural organizations, and nonprofit generators and distributors of electricity.

''(2) COST SHARING.—The costs of carrying out a project or activity under this subsection shall be shared in accordance with section 1002 of the Energy Policy Act of 2005.

''(d) IDENTIFICATION OF NEW RESEARCH AND DEVELOPMENT REQUIREMENTS.—In carrying out the demonstrations under subsection (a), the Secretary, in consultation with the Task Force and the Technical Advisory Committee, shall—

''(1) after 2008 for stationary and portable applications, and after 2010 for vehicles, identify new research and development requirements that refine technological concepts, planning, and applications; and

''(2) during the second phase of the learning demonstrations under subsection (c)(1)(A)(ii) redesign subsequent research and development to incorporate those requirements.

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title—

''(1) $185,000,000 for fiscal year 2006;
''(2) $200,000,000 for fiscal year 2007;
''(3) $250,000,000 for fiscal year 2008;
''(4) $300,000,000 for fiscal year 2009;
''(5) $375,000,000 for fiscal year 2010; and
''(6) such sums as are necessary for each of fiscal years 2011 through 2015.

"TITLE III—REGULATORY MANAGEMENT

"SEC. 301. CODES AND STANDARDS.

''(a) IN GENERAL.—The Secretary, in cooperation with the Task Force, shall provide grants to, or offer to enter into contracts with such professional organizations, public service organizations, and government agencies as the Secretary determines appropriate to support timely and extensive development of safety codes and standards relating to fuel cell vehicles, hydrogen energy systems, and stationary, portable, and micro fuel cells.

''(b) EDUCATIONAL EFFORTS.—The Secretary shall support educational efforts by organizations and agencies described in subsection (a) to share information, including information relating to best practices, among those organizations and agencies.

"SEC. 302. DISCLOSURE.

''Section 623 of the Energy Policy Act of 1992 (42 U.S.C. 13293) shall apply to any project carried out through a grant, cooperative agreement, or contract under this Act.

"SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to carry out this title—

''(1) $4,000,000 for fiscal year 2006;
''(2) $7,000,000 for fiscal year 2007;
''(3) $8,000,000 for fiscal year 2008;
''(4) $10,000,000 for fiscal year 2009;
''(5) $9,000,000 for fiscal year 2010; and
''(6) such sums as are necessary for each of fiscal years 2011 and 2012.

"TITLE IV—REPORTS

"SEC. 401. DEPLOYMENT OF HYDROGEN TECHNOLOGY.

''(a) SECRETARY.—Subject to subsection (c), not later than 2 years after the date of enactment of the Hydrogen and Fuel Cell Technology Act of 2005, and triennially thereafter, the Secretary shall submit to Congress a report describing—

''(1) any activity carried out by the Department of Energy under this Act, including a research, development, demonstration, and commercial application program for hydrogen and fuel cell technology;

''(2) measures the Secretary has taken during the preceding 3 years to support the transition of primary industry (or a related industry) to a fully commercialized hydrogen economy;

''(3) any change made to a research, development, or deployment strategy of the Secretary relating to hydrogen and fuel cell technology to reflect the results of a learning demonstration under title II;

''(4) progress, including progress in infrastructure, made toward achieving the goal of producing and deploying not less than—

''(A) 100,000 hydrogen-fueled vehicles in the United States by 2010; and

''(B) 2,500,000 hydrogen-fueled vehicles by 2020;

''(5) progress made toward achieving the goal of supplying hydrogen at a sufficient number of fueling stations in the United States by 2010 can be achieved by integrating—

''(A) hydrogen activities; and

''(B) associated targets and timetables for the development of hydrogen technologies;

''(6) any problem relating to the design, execution, or funding of a program under this Act;

''(7) progress made toward and goals achieved in carrying out this Act and updates to the developmental roadmap, including the results of the reviews conducted by the National Academy of Sciences under subsection (b) for the fiscal years covered by the report; and

''(8) any updates to strategic plans that are necessary to meet the goals described in paragraph (4).

''(b) NATIONAL ACADEMY OF SCIENCES.—

''(1) IN GENERAL.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct and submit to the Secretary, not later than September 30, 2007, and triennially thereafter—

''(A) the results of a review of the projects and activities carried out under this Act;

''(B) recommendations for any new authorities or resources needed to achieve strategic goals; and

''(C) recommendations for approaches by which the Secretary could achieve a substantial decrease in the dependence on and consumption of natural gas and imported oil by the Federal Government, including by increasing the use of fuel cell vehicles, stationary and portable fuel cells, and hydrogen energy systems.

''(2) REAUTHORIZATION.—The Secretary shall use the results of reviews conducted under paragraph (1) in proposing to Congress any legislative changes relating to reauthorization of this Act.

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

''There is authorized to be appropriated to carry out this title $1,500,000 for each of fiscal years 2006 through 2010.

"TITLE V—TERMINATION OF AUTHORITY

"SEC. 501. TERMINATION OF AUTHORITY.

''This Act and the authority provided by this Act terminate on September 30, 2015.''.

TITLE IX—RESEARCH AND DEVELOPMENT

SEC. 901. SHORT TITLE.

This title may be cited as the ''Energy Research, Development, Demonstration, and Commercial Application Act of 2005''.

SEC. 902. GOALS.

(a) IN GENERAL.—In order to achieve the purposes of this title, the Secretary shall

conduct a balanced set of programs of energy research, development, demonstration, and commercial application focused on—

(1) increasing the efficiency of all energy intensive sectors through conservation and improved technologies;

(2) promoting diversity of energy supply;

(3) decreasing the dependence of the United States on foreign energy supplies;

(4) improving the energy security of the United States; and

(5) decreasing the environmental impact of energy-related activities.

(b) GOALS.—The Secretary shall publish measurable cost and performance-based goals with each annual budget submission in at least the following areas:

(1) Energy efficiency for buildings, energy-consuming industries, and vehicles.

(2) Electric energy generation (including distributed generation), transmission, and storage.

(3) Renewable energy technologies, including wind power, photovoltaics, solar thermal systems, geothermal energy, hydrogen-fueled systems, biomass-based systems, biofuels, and hydropower.

(4) Fossil energy, including power generation, onshore and offshore oil and gas resource recovery, and transportation.

(5) Nuclear energy, including programs for existing and advanced reactors, and education of future specialists.

(c) PUBLIC COMMENT.—The Secretary shall provide mechanisms for input on the annually published goals from industry, institutions of higher education, and other public sources.

(d) EFFECT OF GOALS.—Nothing in subsection (a) or the annually published goals creates any new authority for any Federal agency, or may be used by any Federal agency, to support the establishment of regulatory standards or regulatory requirements.

SEC. 903. DEFINITIONS.

In this title:

(1) DEPARTMENTAL MISSION.—The term ''departmental mission'' means any of the functions vested in the Secretary by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.

(2) HISPANIC-SERVING INSTITUTION.—The term ''Hispanic-serving institution'' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).

(3) NONMILITARY ENERGY LABORATORY.—The term ''nonmilitary energy laboratory'' means a National Laboratory other than a National Laboratory listed in subparagraph (G), (H), or (N) of section 2(3).

(4) PART B INSTITUTION.—The term ''part B institution'' has the meaning given the term in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(5) SINGLE-PURPOSE RESEARCH FACILITY.—The term ''single-purpose research facility'' means—

(A) any of the primarily single-purpose entities owned by the Department; or

(B) any other organization of the Department designated by the Secretary.

Subtitle A—Energy Efficiency

SEC. 911. ENERGY EFFICIENCY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out energy efficiency and conservation research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $772,000,000 for fiscal year 2006;

(2) $865,000,000 for fiscal year 2007; and

(3) $920,000,000 for fiscal year 2008.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 912, $50,000,000 for each of fiscal years 2006 through 2008.

(2) For activities under section 914, $7,000,000 for each of fiscal years 2006 through 2008.

(3) For activities under section 915—

(A) $30,000,000 for fiscal year 2006;

(B) $35,000,000 for fiscal year 2007; and

(C) $40,000,000 for fiscal year 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary to carry out section 912 $50,000,000 for each of fiscal years 2009 through 2013.

(d) LIMITATIONS.—None of the funds authorized to be appropriated under this section may be used for—

(1) the issuance or implementation of energy efficiency regulations;

(2) the weatherization program established under part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.);

(3) a State energy conservation plan established under part D of title III of the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.); or

(4) a Federal energy management measure carried out under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.).

SEC. 912. NEXT GENERATION LIGHTING INITIATIVE.

(a) DEFINITIONS.—In this section:

(1) ADVANCED SOLID-STATE LIGHTING.—The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.

(2) INDUSTRY ALLIANCE.—The term ''Industry Alliance'' means an entity selected by the Secretary under subsection (d).

(3) INITIATIVE.—The term ''Initiative'' means the Next Generation Lighting Initiative carried out under this section.

(4) RESEARCH.—The term ''research'' includes research on the technologies, materials, and manufacturing processes required for white light emitting diodes.

(5) WHITE LIGHT EMITTING DIODE.—The term ''white light emitting diode'' means a semiconducting package, using either organic or inorganic materials, that produces white light using externally applied voltage.

(b) INITIATIVE.—The Secretary shall carry out a Next Generation Lighting Initiative in accordance with this section to support research, development, demonstration, and commercial application activities related to advanced solid-state lighting technologies based on white light emitting diodes.

(c) OBJECTIVES.—The objectives of the Initiative shall be to develop advanced solid-state organic and inorganic lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are longer lasting, are more energy-efficient and cost-competitive, and have less environmental impact.

(d) INDUSTRY ALLIANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall competitively select an Industry Alliance to represent participants who are private, for-profit firms that, as a group, are broadly representative of United States solid state lighting research, development, infrastructure, and manufacturing expertise as a whole.

(e) RESEARCH.—

(1) GRANTS.—The Secretary shall carry out the research activities of the Initiative through competitively awarded grants to—

(A) researchers, including Industry Alliance participants;

(B) National Laboratories; and

(C) institutions of higher education.

(2) INDUSTRY ALLIANCE.—The Secretary shall annually solicit from the Industry Alliance—

(A) comments to identify solid-state lighting technology needs;

(B) an assessment of the progress of the research activities of the Initiative; and

(C) assistance in annually updating solid-state lighting technology roadmaps.

(3) AVAILABILITY TO PUBLIC.—The information and roadmaps under paragraph (2) shall be available to the public.

(f) DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—The Secretary shall carry out a development, demonstration, and commercial application program for the Initiative through competitively selected awards.

(2) PREFERENCE.—In making the awards, the Secretary may give preference to participants in the Industry Alliance.

(g) COST SHARING.—In carrying out this section, the Secretary shall require cost sharing in accordance with section 1002.

(h) INTELLECTUAL PROPERTY.—The Secretary may require (in accordance with section 202(a)(ii) of title 35, United States Code, section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182), and section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908)) that for any new invention developed under subsection (e)—

(1) that the Industry Alliance participants who are active participants in research, development, and demonstration activities related to the advanced solid-state lighting technologies that are covered by this section shall be granted the first option to negotiate with the invention owner, at least in the field of solid-state lighting, nonexclusive licenses and royalties on terms that are reasonable under the circumstances;

(2)(i) that, for 1 year after a United States patent is issued for the invention, the patent holder shall not negotiate any license or royalty with any entity that is not a participant in the Industry Alliance described in paragraph (1); and

(ii) that, during the year described in clause (i), the patent holder shall negotiate nonexclusive licenses and royalties in good faith with any interested participant in the Industry Alliance described in paragraph (1); and

(3) such other terms as the Secretary determines are required to promote accelerated commercialization of inventions made under the Initiative.

(i) NATIONAL ACADEMY REVIEW.—The Secretary shall enter into an arrangement with the National Academy of Sciences to conduct periodic reviews of the Initiative.

SEC. 913. NATIONAL BUILDING PERFORMANCE INITIATIVE.

(a) INTERAGENCY GROUP.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall establish an interagency group to develop, in coordination with the advisory committee established under subsection (e), a National Building Performance Initiative (referred to in this section as the ''Initiative'').

(2) COCHAIRS.—The interagency group shall be co-chaired by appropriate officials of the Department and the Department of Commerce, who shall jointly arrange for the provision of necessary administrative support to the group.

(b) INTEGRATION OF EFFORTS.—The Initiative shall integrate Federal, State, and voluntary private sector efforts to reduce the costs of construction, operation, maintenance, and renovation of commercial, industrial, institutional, and residential buildings.

(c) PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the interagency group shall submit to Congress a plan for carrying out the appropriate Federal role in the Initiative.

(2) INCLUSIONS.—The plan shall include—

(A) research, development, demonstration, and commercial application of systems and materials for new construction and retrofit relating to the building envelope and building system components;

(B) research, development, demonstration, and commercial application to develop technology and infrastructure enabling the energy efficient, automated operation of buildings and building equipment; and

(C) the collection, analysis, and dissemination of research results and other pertinent information on enhancing building performance to industry, government entities, and the public.

(d) DEPARTMENT OF ENERGY ROLE.—Within the Federal portion of the Initiative, the Department shall be the lead agency for all aspects of building performance related to use and conservation of energy.

(e) ADVISORY COMMITTEE.—The Director of the Office of Science and Technology Policy shall establish an advisory committee to—

(1) analyze and provide recommendations on potential private sector roles and participation in the Initiative; and

(2) review and provide recommendations on the plan described in subsection (c).

(f) ADMINISTRATION.—Nothing in this section provides any Federal agency with new authority to regulate building performance.

SEC. 914. SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) BATTERY.—The term ''battery'' means an energy storage device that previously has been used to provide motive power in a vehicle powered in whole or in part by electricity.

(2) ASSOCIATED EQUIPMENT.—The term ''associated equipment'' means equipment located where the batteries will be used that is necessary to enable the use of the energy stored in the batteries.

(b) PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish and conduct a research, development, demonstration, and commercial application program for the secondary use of batteries.

(2) ADMINISTRATION.—The program shall be—

(A) designed to demonstrate the use of batteries in secondary applications, including utility and commercial power storage and power quality;

(B) structured to evaluate the performance, including useful service life and costs, of such batteries in field operations, and the necessary supporting infrastructure, including reuse and disposal of batteries; and

(C) coordinated with ongoing secondary battery use programs at the National Laboratories and in industry.

(c) SOLICITATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate the secondary use of batteries and associated equipment and supporting infrastructure in geographic locations throughout the United States.

(2) ADDITIONAL SOLICITATIONS.—The Secretary may make additional solicitations for proposals if the Secretary determines that the solicitations are necessary to carry out this section.

(d) SELECTION OF PROPOSALS.—

(1) IN GENERAL.—Not later than 90 days after the closing date established by the Secretary for receipt of proposals under subsection (c), the Secretary shall select up to 5 proposals that may receive financial assistance under this section once the Department receives appropriated funds to carry out this section.

(2) FACTORS.—In selecting proposals, the Secretary shall consider—

(A) the diversity of battery type;

(B) geographic and climatic diversity; and

(C) life-cycle environmental effects of the approaches.

(3) LIMITATION.—No 1 project selected under this section shall receive more than 25 percent of the funds made available to carry out the program under this section.

(4) NONFEDERAL INVOLVEMENT.—In selecting proposals, the Secretary shall consider the extent of involvement of State or local government and other persons in each demonstration project to optimize use of Federal resources.

(5) OTHER CRITERIA.—In selecting proposals, the Secretary may consider such other criteria as the Secretary considers appropriate.

(e) CONDITIONS.—In carrying out this section, the Secretary shall require that—

(1) relevant information be provided to—

(A) the Department;

(B) the users of the batteries;

(C) the proposers of a project under this section; and

(D) the battery manufacturers; and

(2) the costs of carrying out projects and activities under this section are shared in accordance with section 1002.

SEC. 915. ENERGY EFFICIENCY SCIENCE INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.

(b) REPORT.—The Secretary shall submit to Congress, along with the annual budget request of the President submitted to Congress, a report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.

Subtitle B—Distributed Energy and Electric Energy Systems

SEC. 921. DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS.

(a) IN GENERAL.—

(1) DISTRIBUTED ENERGY AND ELECTRIC ENERGY SYSTEMS ACTIVITIES.—There are authorized to be appropriated to the Secretary to carry out distributed energy and electric energy systems activities, including activities authorized under this subtitle—

(A) $220,000,000 for fiscal year 2006;

(B) $240,000,000 for fiscal year 2007; and

(C) $260,000,000 for fiscal year 2008.

(2) POWER DELIVERY RESEARCH INITIATIVE.—There are authorized to be appropriated to the Secretary to carry out the Policy Delivery Research Initiative under subsection 925(e)—

(A) $30,000,000 for fiscal year 2006;

(B) $35,000,000 for fiscal year 2007; and

(C) $40,000,000 for fiscal year 2008.

(b) MICRO-COGENERATION ENERGY TECHNOLOGY.—From amounts authorized under subsection (a), $20,000,000 for each of fiscal years 2006 and 2007 shall be available to carry out activities under section 924.

SEC. 922. HIGH POWER DENSITY INDUSTRY PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a comprehensive research, development, demonstration, and commercial application program to improve the energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities.

(b) TECHNOLOGIES.—The program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.

SEC. 923. MICRO-COGENERATION ENERGY TECHNOLOGY.

(a) IN GENERAL.—The Secretary shall make competitive, merit-based grants to consortia for the development of micro-cogeneration energy technology.

(b) USES.—The consortia shall explore—

(1) the use of small-scale combined heat and power in residential heating appliances;

(2) the use of excess power to operate other appliances within the residence; and

(3) the supply of excess generated power to the power grid.

SEC. 924. DISTRIBUTED ENERGY TECHNOLOGY DEMONSTRATION PROGRAM.

The Secretary may provide financial assistance to coordinating consortia of interdisciplinary participants for demonstrations designed to accelerate the use of distributed energy technologies (such as fuel cells, microturbines, reciprocating engines, thermally activated technologies, and combined heat and power systems) in highly energy intensive commercial applications.

SEC. 925. ELECTRIC TRANSMISSION AND DISTRIBUTION PROGRAMS.

(a) DEMONSTRATION PROGRAM.—The Secretary shall establish a comprehensive research, development, and demonstration program to ensure the reliability, efficiency, and environmental integrity of electrical transmission and distribution systems, which shall include—

(1) advanced energy and energy storage technologies, materials, and systems, giving priority to new transmission technologies, including composite conductor materials and other technologies that enhance reliability, operational flexibility, or power-carrying capability;

(2) advanced grid reliability and efficiency technology development;

(3) technologies contributing to significant load reductions;

(4) advanced metering, load management, and control technologies;

(5) technologies to enhance existing grid components;

(6) the development and use of high-temperature superconductors to—

(A) enhance the reliability, operational flexibility, or power-carrying capability of electric transmission or distribution systems; or

(B) increase the efficiency of electric energy generation, transmission, distribution, or storage systems;

(7) integration of power systems, including systems to deliver high-quality electric power, electric power reliability, and combined heat and power;

(8) supply of electricity to the power grid by small scale, distributed and residential-based power generators;

(9) the development and use of advanced grid design, operation, and planning tools;

(10) any other infrastructure technologies, as appropriate; and

(11) technology transfer and education.

(b) PROGRAM PLAN.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with other appropriate Federal agencies, shall prepare and submit to Congress a 5-year program plan to guide activities under this section.

(2) CONSULTATION.—In preparing the program plan, the Secretary shall consult with—

(A) utilities;
(B) energy service providers;
(C) manufacturers;
(D) institutions of higher education;
(E) other appropriate State and local agencies;
(F) environmental organizations;
(G) professional and technical societies; and
(H) any other persons the Secretary considers appropriate.

(c) IMPLEMENTATION.—The Secretary shall consider implementing the program under this section using a consortium of participants from industry, institutions of higher education, and National Laboratories.

(d) REPORT.—Not later than 2 years after the submission of the plan under subsection (b), the Secretary shall submit to Congress a report—

(1) describing the progress made under this section; and

(2) identifying any additional resources needed to continue the development and commercial application of transmission and distribution of infrastructure technologies.

(e) POWER DELIVERY RESEARCH INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on power delivery using components incorporating high temperature superconductivity.

(2) GOALS.—The goals of the Initiative shall be—

(A) to establish world-class facilities to develop high temperature superconductivity power applications in partnership with manufacturers and utilities;

(B) to provide technical leadership for establishing reliability for high temperature superconductivity power applications, including suitable modeling and analysis;

(C) to facilitate the commercial transition toward direct current power transmission, storage, and use for high power systems using high temperature superconductivity; and

(D) to facilitate the integration of very low impedance high temperature superconducting wires and cables in existing electric networks to improve system performance, power flow control, and reliability.

(3) INCLUSIONS.—The Initiative shall include—

(A) feasibility analysis, planning, research, and design to construct demonstrations of superconducting links in high power, direct current, and controllable alternating current transmission systems;

(B) public-private partnerships to demonstrate deployment of high temperature superconducting cable into testbeds simulating a realistic transmission grid and under varying transmission conditions, including actual grid insertions; and

(C) testbeds developed in cooperation with National Laboratories, industries, and institutions of higher education to—

(i) demonstrate those technologies;

(ii) prepare the technologies for commercial introduction; and

(iii) address cost or performance roadblocks to successful commercial use.

(f) TRANSMISSION AND DISTRIBUTION GRID PLANNING AND OPERATIONS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall establish a research, development, and demonstration initiative specifically focused on tools needed to plan, operate, and expand the transmission and distribution grids in the presence of competitive market mechanisms for energy, load demand, customer response, and ancillary services.

(2) GOALS.—The goals of the Initiative shall be—

(A)(i) to develop and use a geographically distributed center, consisting of institutions of higher education, and National Laboratories, with expertise and facilities to develop the underlying theory and software for power system application; and

(ii) to ensure commercial development in partnership with software vendors and utilities;

(B) to provide technical leadership in engineering and economic analysis for the reliability and efficiency of power systems planning and operations in the presence of competitive markets for electricity;

(C) to model, simulate, and experiment with new market mechanisms and operating practices to understand and optimize those new methods before actual use; and

(D) to provide technical support and technology transfer to electric utilities and other participants in the domestic electric industry and marketplace.

Subtitle C—Renewable Energy

SEC. 931. RENEWABLE ENERGY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out renewable energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $610,000,000 for fiscal year 2006;
(2) $659,000,000 for fiscal year 2007; and
(3) $710,000,000 for fiscal year 2008.

(b) BIOENERGY.—From the amounts authorized under subsection (a), there are authorized to be appropriated to carry out section 932—

(1) $167,650,000 for fiscal year 2006;
(2) $180,000,000 for fiscal year 2007; and
(3) $192,000,000 for fiscal year 2008.

(c) CONCENTRATING SOLAR POWER.—From amounts authorized under subsection (a), there is authorized to be appropriated to carry out section 933 $50,000,000 for each of fiscal years 2006 through 2008.

(d) ADMINISTRATION.—Of the funds authorized under subsection (b), not less than $5,000,000 for each fiscal year shall be made available for grants to—

(1) part B institutions;

(2) Tribal Colleges or Universities (as defined in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b))); and

(3) Hispanic-serving institutions.

(e) CONSULTATION.—In carrying out this section, the Secretary, in consultation with the Secretary of Agriculture, shall demonstrate the use of—

(1) advanced wind power technology, including combined use with coal gasification;

(2) biomass;

(3) geothermal energy systems; and

(4) other renewable energy technologies to assist in delivering electricity to rural and remote locations.

SEC. 932. BIOENERGY PROGRAM.

(a) DEFINITION OF CELLULOSIC FEEDSTOCK.—In this section, the term ''cellulosic feedstock'' means any portion of a crop not normally used in food production or any nonfood crop grown for the purpose of producing biomass feedstock.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for bioenergy, including—

(1) biopower energy systems;

(2) biofuels;

(3) bioproducts;

(4) integrated biorefineries that may produce biopower, biofuels, and bioproducts;

(5) cross-cutting research and development in feedstocks; and

(6) economic analysis.

(c) BIOFUELS AND BIOPRODUCTS.—The goals of the biofuels and bioproducts programs shall be to develop, in partnership with industry and institutions of higher education—

(1) advanced biochemical and thermochemical conversion technologies capable of making fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell-powered vehicles;

(2) advanced biotechnology processes capable of making biofuels and bioproducts with emphasis on development of biorefinery technologies using enzyme-based processing systems;

(3) advanced biotechnology processes capable of increasing energy production from cellulosic feedstocks, with emphasis on reducing the dependence of industry on fossil fuels in manufacturing facilities; and

(4) other advanced processes that will enable the development of cost-effective bioproducts, including biofuels.

(d) REPEAL OF SUNSET PROVISION.—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 8101 note) is repealed.

SEC. 933. CONCENTRATING SOLAR POWER RESEARCH PROGRAM.

(a) IN GENERAL.—The Secretary shall conduct a program of research and development to evaluate the potential for concentrating solar power for hydrogen production, including cogeneration approaches for both hydrogen and electricity.

(b) ADMINISTRATION.—The program shall take advantage of existing facilities to the extent practicable and shall include—

(1) development of optimized technologies that are common to both electricity and hydrogen production;

(2) evaluation of thermochemical cycles for hydrogen production at the temperatures attainable with concentrating solar power;

(3) evaluation of materials issues for the thermochemical cycles described in paragraph (2);

(4) cogeneration of solar thermal electric power and photo-synthetic-based hydrogen production;

(5) system architectures and economics studies; and

(6) coordination with activities under the Advanced Reactor Hydrogen Co-generation Project established under subtitle C of title VI on high temperature materials, thermochemical cycles, and economic issues.

(c) ASSESSMENT.—In carrying out the program under this section, the Secretary shall—

(1) assess conflicting guidance on the economic potential of concentrating solar power for electricity production received from the National Research Council in the report entitled ''Renewable Power Pathways: A Review of the U.S. Department of Energy's Renewable Energy Programs'' and dated 2000 and subsequent reviews of that report funded by the Department; and

(2) provide an assessment of the potential impact of technology used to concentrate solar power for electricity before, or concurrent with, submission of the budget for fiscal year 2007.

(d) REPORT.—Not later than 5 years after the date of enactment of this Act, the Secretary shall provide to Congress a report on the economic and technical potential for electricity or hydrogen production, with or without cogeneration, with concentrating solar power, including the economic and technical feasibility of potential construction of a pilot demonstration facility suitable for commercial production of electricity or hydrogen from concentrating solar power.

SEC. 934. HYBRID SOLAR LIGHTING RESEARCH AND DEVELOPMENT PROGRAM.

(a) DEFINITION OF HYBRID SOLAR LIGHTING.—In this section, the term ''hybrid solar lighting'' means a novel lighting system that integrates sunlight and electrical lighting in complement to each other in common lighting fixtures for the purpose of improving energy efficiency.

(b) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for hybrid solar lighting aimed at developing hybrid solar lighting systems that are—

(1) designed to eliminate large roof penetrations and associated architectural design and maintenance problems that limit the conventional use of daylight in most buildings;

(2) easily integrated with electric lights; and

(3) compatible with a majority of electric lamps and light fixtures.

(c) LIMITATIONS.—Funding authorized under this section shall not be used for lighting systems based on conventional daylighting installations such as skylights, light wells, light shelves, or roof monitors.

(d) NATIONAL ACADEMY OF SCIENCES.—Not later than 2 years after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences to conduct a biannual review of the activities under this section including program priorities, technical milestones, and opportunities for technology transfer and commercialization.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $4,000,000 for fiscal year 2006;

(2) $6,000,000 for fiscal year 2007; and

(3) $6,000,000 for fiscal year 2008.

SEC. 935. MISCELLANEOUS PROJECTS.

The Secretary shall conduct research, development, demonstration, and commercial application programs for—

(1) ocean energy, including wave energy;

(2) the combined use of renewable energy technologies with 1 another and with other energy technologies, including the combined use of wind power and coal gasification technologies; and

(3) renewable energy technologies for cogeneration of hydrogen and electricity.

Subtitle D—Nuclear Energy

SEC. 941. NUCLEAR ENERGY.

(a) CORE PROGRAMS.—There are authorized to be appropriated to the Secretary to carry out nuclear energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle, other than those described in subsection (b)—

(1) $330,000,000 for fiscal year 2006;

(2) $355,000,000 for fiscal year 2007; and

(3) $495,000,000 for fiscal year 2008.

(b) NUCLEAR INFRASTRUCTURE SUPPORT.—There are authorized to be appropriated to the Secretary to carry out activities under section 942(f):

(1) $135,000,000 for fiscal year 2006;

(2) $140,000,000 for fiscal year 2007; and

(3) $145,000,000 for fiscal year 2008.

(c) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 943—

(A) $150,000,000 for fiscal year 2006;

(B) $155,000,000 for fiscal year 2007; and

(C) $275,000,000 for fiscal year 2008.

(2) For activities under section 944—

(A) $43,600,000 for fiscal year 2006;

(B) $50,100,000 for fiscal year 2007; and

(C) $56,000,000 for fiscal year 2008.

(3) For activities under section 946, $6,000,000 for each of fiscal years 2006 through 2008.

(d) LIMITATION.—None of the funds authorized under this section may be used to decommission the Fast Flux Test Facility.

SEC. 942. NUCLEAR ENERGY RESEARCH PROGRAMS.

(a) NUCLEAR ENERGY RESEARCH INITIATIVE.—The Secretary shall carry out a Nuclear Energy Research Initiative for research and development related to nuclear energy.

(b) NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.—The Secretary shall carry out a Nuclear Energy Plant Optimization Program to support research and development activities addressing reliability, availability, productivity, component aging, safety, and security of existing nuclear power plants.

(c) NUCLEAR POWER 2010 PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a Nuclear Power 2010 Program, consistent with recommendations of the Nuclear Energy Research Advisory Committee of the Department in the report entitled ''A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010'' and dated October 2001.

(2) ADMINISTRATION.—The Program shall include—

(A) use of the expertise and capabilities of industry, institutions of higher education, and National Laboratories in evaluation of advanced nuclear fuel cycles and fuels testing;

(B) consideration of a variety of reactor designs suitable for both developed and developing nations;

(C) participation of international collaborators in research, development, and design efforts, as appropriate; and

(D) encouragement for participation by institutions of higher education and industry.

(d) GENERATION IV NUCLEAR ENERGY SYSTEMS INITIATIVE.—

(1) IN GENERAL.—The Secretary shall carry out a Generation IV Nuclear Energy Systems Initiative to develop an overall technology plan for and to support research and development necessary to make an informed technical decision about the most promising candidates for eventual commercial application.

(2) ADMINISTRATION.—In conducting the Initiative, the Secretary shall examine advanced proliferation-resistant and passively safe reactor designs, including designs that—

(A) are economically competitive with other electric power generation plants;

(B) have higher efficiency, lower cost, and improved safety compared to reactors in operation on the date of enactment of this Act;

(C) use fuels that are proliferation resistant and have substantially reduced production of high-level waste per unit of output; and

(D) use improved instrumentation.

(e) REACTOR PRODUCTION OF HYDROGEN.—The Secretary shall carry out research to examine designs for high-temperature reactors capable of producing large-scale quantities of hydrogen using thermochemical processes.

(f) NUCLEAR INFRASTRUCTURE SUPPORT.—

(1) IN GENERAL.—The Secretary shall—

(A) develop and implement a strategy for the facilities of the Office of Nuclear Energy, Science, and Technology; and

(B) submit to Congress a report describing the strategy, along with the budget request of the President submitted to Congress for fiscal year 2006.

(2) ADMINISTRATION.—The strategy shall provide a cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility upgrades and modifications; and

(D) building new facilities.

SEC. 943. ADVANCED FUEL CYCLE INITIATIVE.

(a) IN GENERAL.—The Secretary, acting through the Director of the Office of Nuclear Energy, Science and Technology, shall conduct an advanced fuel recycling technology research and development program (referred to in this section as the ''program'') to evaluate proliferation-resistant fuel recycling and transmutation technologies that minimize environmental or public health and safety impacts as an alternative to aqueous reprocessing technologies deployed as of the date of enactment of this Act in support of evaluation of alternative national strategies for spent nuclear fuel and the Generation IV advanced reactor concepts.

(b) ANNUAL REVIEW.—The program shall be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department or other independent entity, as appropriate.

(c) INTERNATIONAL COOPERATION.—In carrying out the program, the Secretary is encouraged to seek opportunities to enhance the progress of the program through international cooperation.

(d) REPORTS.—The Secretary shall submit, as part of the annual budget submission of the Department, a report on the activities of the program.

SEC. 944. NUCLEAR SCIENCE AND ENGINEERING SUPPORT FOR INSTITUTIONS OF HIGHER EDUCATION.

(a) ESTABLISHMENT.—The Secretary shall support a program to invest in human resources and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.

(b) DUTIES.—

(1) IN GENERAL.—In carrying out the program under this section, the Secretary shall—

(A) establish fellowship and faculty assistance programs; and

(B) provide support for fundamental research and encourage collaborative research among industry, National Laboratories, and institutions of higher education through the Nuclear Energy Research Initiative established under section 942(a).

(2) ENTIRE FUEL CYCLE.—The Secretary is encouraged to support activities addressing the entire fuel cycle through involvement of the Office of Nuclear Energy, Science and Technology and the Office of Civilian Radioactive Waste Management.

(3) OUTREACH.—The Secretary shall support communication and outreach related to nuclear science, engineering, and nuclear waste management.

(c) MAINTAINING RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE IN INSTITUTIONS OF HIGHER EDUCATION.—Activities under this section may include—

(1) converting research reactors currently using high-enrichment fuels to low-enrichment fuels;

(2) upgrading operational instrumentation;

(3) sharing of reactors among institutions of higher education;

(4) providing technical assistance, in collaboration with the United States nuclear industry, in relicensing and upgrading training reactors as part of a student training program; and

(5) providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.

(d) INTERACTIONS BETWEEN NATIONAL LABORATORIES AND INSTITUTIONS OF HIGHER EDUCATION.—The Secretary shall develop sabbatical fellowship and visiting scientist programs to encourage sharing of personnel between National Laboratories and institutions of higher education.

(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a research reactor at an institution of higher education used in the research project.

SEC. 945. SECURITY OF NUCLEAR FACILITIES.

The Secretary, acting through the Director of the Office of Nuclear Energy, Science and

Technology, shall conduct a research and development program on cost-effective technologies for increasing—

(1) the safety of nuclear facilities from natural phenomena; and

(2) the security of nuclear facilities from deliberate attacks.

SEC. 946. ALTERNATIVES TO INDUSTRIAL RADIOACTIVE SOURCES.

(a) SURVEY.—

(1) IN GENERAL.—Not later than August 1, 2006, the Secretary shall submit to Congress the results of a survey of industrial applications of large radioactive sources.

(2) ADMINISTRATION.—The survey shall—

(A) consider well-logging sources as 1 class of industrial sources;

(B) include information on current domestic and international Department, Department of Defense, State Department, and commercial programs to manage and dispose of radioactive sources; and

(C) analyze available disposal options for currently deployed or future sources and, if deficiencies are noted for either deployed or future sources, recommend legislative options that Congress may consider to remedy identified deficiencies.

(b) PLAN.—

(1) IN GENERAL.—In conjunction with the survey conducted under subsection (a), the Secretary shall establish a research and development program to develop alternatives to sources described in subsection (a) that reduce safety, environmental, or proliferation risks to either workers using the sources or the public.

(2) ACCELERATORS.—Miniaturized particle accelerators for well-logging or other industrial applications and portable accelerators for production of short-lived radioactive materials at an industrial site shall be considered as part of the research and development efforts.

(3) REPORT.—Not later than August 1, 2006, the Secretary shall submit to Congress a report describing the details of the program plan.

Subtitle E—Fossil Energy

SEC. 951. FOSSIL ENERGY.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out fossil energy research, development, demonstration, and commercial application activities, including activities authorized under this subtitle—

(1) $583,000,000 for fiscal year 2006;

(2) $611,000,000 for fiscal year 2007; and

(3) $626,000,000 for fiscal year 2008.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under section 952(b)(2), $28,000,000 for each of fiscal years 2006 through 2008.

(2) For activities under section 954, $20,000,000 for each of fiscal years 2006 through 2008.

(3) For activities under section 955—

(A) $285,000,000 for fiscal year 2006;

(B) $298,000,000 for fiscal year 2007; and

(C) $308,000,000 for fiscal year 2008.

(4) For the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2006 through 2008.

(c) EXTENDED AUTHORIZATION.—There are authorized to be appropriated to the Secretary for the Office of Arctic Energy established under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (42 U.S.C. 7144d) $25,000,000 for each of fiscal years 2009 through 2012.

(d) LIMITATIONS.—

(1) USES.—None of the funds authorized under this section may be used for Fossil Energy Environmental Restoration or Import/Export Authorization.

(2) INSTITUTIONS OF HIGHER EDUCATION.—Of the funds authorized under subsection (b)(2), not less than 20 percent of the funds appropriated for each fiscal year shall be dedicated to research and development carried out at institutions of higher education.

SEC. 952. OIL AND GAS RESEARCH PROGRAMS.

(a) OIL AND GAS RESEARCH.—The Secretary shall conduct a program of research, development, demonstration, and commercial application of oil and gas, including—

(1) exploration and production;

(2) gas hydrates;

(3) reservoir life and extension;

(4) transportation and distribution infrastructure;

(5) ultraclean fuels;

(6) heavy oil and shale; and

(7) related environmental research.

(b) FUEL CELLS.—

(1) IN GENERAL.—The Secretary shall conduct a program of research, development, demonstration, and commercial application on fuel cells for low-cost, high-efficiency, fuel-flexible, modular power systems.

(2) DEMONSTRATIONS.—The demonstrations shall include fuel cell proton exchange membrane technology for commercial, residential, and transportation applications, and distributed generation systems, using improved manufacturing production and processes.

(c) NATURAL GAS AND OIL DEPOSITS REPORT.—Not later than 2 years after the date of enactment of this Act and every 2 years thereafter, the Secretary of the Interior, in consultation with other appropriate Federal agencies, shall submit to Congress a report on the latest estimates of natural gas and oil reserves, reserves growth, and undiscovered resources in Federal and State waters off the coast of Louisiana, Texas, Alabama, and Mississippi.

(d) INTEGRATED CLEAN POWER AND ENERGY RESEARCH.—

(1) ESTABLISHMENT OF CENTER.—The Secretary shall establish a national center or consortium of excellence in clean energy and power generation, using the resources of the Clean Power and Energy Research Consortium in existence on the date of enactment of this Act, to address the critical dependence of the United States on energy and the need to reduce emissions.

(2) FOCUS AREAS.—The center or consortium shall conduct a program of research, development, demonstration, and commercial application on integrating the following 6 focus areas:

(A) Efficiency and reliability of gas turbines for power generation.

(B) Reduction in emissions from power generation.

(C) Promotion of energy conservation issues.

(D) Effectively using alternative fuels and renewable energy.

(E) Development of advanced materials technology for oil and gas exploration and use in harsh environments.

(F) Education on energy and power generation issues.

SEC. 953. METHANE HYDRATE RESEARCH.

(a) IN GENERAL.—The Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) is amended to read as follows:

"SECTION 1. SHORT TITLE.

''This Act may be cited as the 'Methane Hydrate Research and Development Act of 2000'.

"SEC. 2. FINDINGS.

''Congress finds that—

''(1) in order to promote energy independence and meet the increasing demand for energy, the United States will require a diversified portfolio of substantially increased quantities of electricity, natural gas, and transportation fuels;

''(2) according to the report submitted to Congress by the National Research Council entitled 'Charting the Future of Methane Hydrate Research in the United States', the total United States resources of gas hydrates have been estimated to be on the order of 200,000 trillion cubic feet;

''(3) according to the report of the National Commission on Energy Policy entitled 'Ending the Energy Stalemate—A Bipartisan Strategy to Meet America's Energy Challenge', and dated December 2004, the United States may be endowed with over 1/4 of the methane hydrate deposits in the world;

''(4) according to the Energy Information Administration, a shortfall in natural gas supply from conventional and unconventional sources is expected to occur in or about 2020; and

''(5) the National Academy of Science states that methane hydrate may have the potential to alleviate the projected shortfall in the natural gas supply.

"SEC. 3. DEFINITIONS.

''In this Act:

''(1) CONTRACT.—The term 'contract' means a procurement contract within the meaning of section 6303 of title 31, United States Code.

''(2) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means a cooperative agreement within the meaning of section 6305 of title 31, United States Code.

''(3) DIRECTOR.—The term 'Director' means the Director of the National Science Foundation.

''(4) GRANT.—The term 'grant' means a grant awarded under a grant agreement (within the meaning of section 6304 of title 31, United States Code).

''(5) INDUSTRIAL ENTERPRISE.—The term 'industrial enterprise' means a private, nongovernmental enterprise that has an expertise or capability that relates to methane hydrate research and development.

''(6) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' means an institution of higher education (as defined in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002)).

''(7) SECRETARY.—The term 'Secretary' means the Secretary of Energy, acting through the Assistant Secretary for Fossil Energy.

''(8) SECRETARY OF COMMERCE.—The term 'Secretary of Commerce' means the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration.

''(9) SECRETARY OF DEFENSE.—The term 'Secretary of Defense' means the Secretary of Defense, acting through the Secretary of the Navy.

''(10) SECRETARY OF THE INTERIOR.—The term 'Secretary of the Interior' means the Secretary of the Interior, acting through the Director of the United States Geological Survey, the Director of the Bureau of Land Management, and the Director of the Minerals Management Service.

"SEC. 4. METHANE HYDRATE RESEARCH AND DEVELOPMENT PROGRAM.

''(a) IN GENERAL.—

''(1) COMMENCEMENT OF PROGRAM.—Not later than 90 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, the Secretary, in consultation with the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director, shall commence a program of methane hydrate research and development in accordance with this section.

''(2) DESIGNATIONS.—The Secretary, the Secretary of Commerce, the Secretary of Defense, the Secretary of the Interior, and the Director shall designate individuals to carry out this section.

''(3) COORDINATION.—The individual designated by the Secretary shall coordinate all activities within the Department of Energy relating to methane hydrate research and development.

''(4) MEETINGS.—The individuals designated under paragraph (2) shall meet not later than 180 days after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005 and not less frequently than every 180 days thereafter to—

''(A) review the progress of the program under paragraph (1); and

''(B) coordinate interagency research and partnership efforts in carrying out the program.

''(b) GRANTS, CONTRACTS, COOPERATIVE AGREEMENTS, INTERAGENCY FUNDS TRANSFER AGREEMENTS, AND FIELD WORK PROPOSALS.—

''(1) ASSISTANCE AND COORDINATION.—In carrying out the program of methane hydrate research and development authorized by this section, the Secretary may award grants to, or enter into contracts or cooperative agreements with, institutions of higher education, oceanographic institutions, and industrial enterprises to—

''(A) conduct basic and applied research to identify, explore, assess, and develop methane hydrate as a commercially viable source of energy;

''(B) identify methane hydrate resources through remote sensing;

''(C) acquire and reprocess seismic data suitable for characterizing methane hydrate accumulations;

''(D) assist in developing technologies required for efficient and environmentally sound development of methane hydrate resources;

''(E) promote education and training in methane hydrate resource research and resource development through fellowships or other means for graduate education and training;

''(F) conduct basic and applied research to assess and mitigate the environmental impact of hydrate degassing (including both natural degassing and degassing associated with commercial development);

''(G) develop technologies to reduce the risks of drilling through methane hydrates; and

''(H) conduct exploratory drilling, well testing, and production testing operations on permafrost and non-permafrost gas hydrates in support of the activities authorized by this paragraph, including drilling of 1 or more full-scale production test wells.

''(2) COMPETITIVE PEER REVIEW.—Funds made available under paragraph (1) shall be made available based on a competitive process using external scientific peer review of proposed research.

''(c) METHANE HYDRATES ADVISORY PANEL.—

''(1) IN GENERAL.—The Secretary shall establish an advisory panel (including the hiring of appropriate staff) consisting of representatives of industrial enterprises, institutions of higher education, oceanographic institutions, State agencies, and environmental organizations with knowledge and expertise in the natural gas hydrates field, to—

''(A) assist in developing recommendations and broad programmatic priorities for the methane hydrate research and development program carried out under subsection (a)(1);

''(B) provide scientific oversight for the methane hydrates program, including assessing progress toward program goals, evaluating program balance, and providing recommendations to enhance the quality of the program over time; and

''(C) not later than 2 years after the date of enactment of the Energy Research, Development, Demonstration, and Commercial Application Act of 2005, and at such later dates as the panel considers advisable, submit to Congress—

''(i) an assessment of the methane hydrate research program; and

''(ii) an assessment of the 5-year research plan of the Department of Energy.

''(2) CONFLICTS OF INTEREST.—In appointing each member of the advisory panel established under paragraph (1), the Secretary shall ensure, to the maximum extent practicable, that the appointment of the member does not pose a conflict of interest with respect to the duties of the member under this Act.

''(3) MEETINGS.—The advisory panel shall—

''(A) hold the initial meeting of the advisory panel not later than 180 days after the date of establishment of the advisory panel; and

''(B) meet biennially thereafter.

''(4) COORDINATION.—The advisory panel shall coordinate activities of the advisory panel with program managers of the Department of Energy at appropriate national laboratories.

''(d) CONSTRUCTION COSTS.—None of the funds made available to carry out this section may be used for the construction of a new building or the acquisition, expansion, remodeling, or alteration of an existing building (including site grading and improvement and architect fees).

''(e) RESPONSIBILITIES OF THE SECRETARY.—In carrying out subsection (b)(1), the Secretary shall—

''(1) facilitate and develop partnerships among government, industrial enterprises, and institutions of higher education to research, identify, assess, and explore methane hydrate resources;

''(2) undertake programs to develop basic information necessary for promoting long-term interest in methane hydrate resources as an energy source;

''(3) ensure that the data and information developed through the program are accessible and widely disseminated as needed and appropriate;

''(4) promote cooperation among agencies that are developing technologies that may hold promise for methane hydrate resource development;

''(5) report annually to Congress on the results of actions taken to carry out this Act; and

''(6) ensure, to the maximum extent practicable, greater participation by the Department of Energy in international cooperative efforts.

''SEC. 5. NATIONAL RESEARCH COUNCIL STUDY.

''(a) AGREEMENT FOR STUDY.—The Secretary shall offer to enter into an agreement with the National Research Council under which the National Research Council shall—

''(1) conduct a study of the progress made under the methane hydrate research and development program implemented under this Act; and

''(2) make recommendations for future methane hydrate research and development needs.

''(b) REPORT.—Not later than September 30, 2009, the Secretary shall submit to Congress a report containing the findings and recommendations of the National Research Council under this section.

''SEC. 6. REPORTS AND STUDIES FOR CONGRESS.

''The Secretary shall provide to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate copies of any report or study that the Department of Energy prepares at the direction of any committee of Congress relating to the methane hydrate research and development program implemented under this Act.

''SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the Secretary to carry out this Act, to remain available until expended—

''(1) $15,000,000 for fiscal year 2006;

''(2) $20,000,000 for fiscal year 2007;

''(3) $30,000,000 for fiscal year 2008;

''(4) $50,000,000 for fiscal year 2009; and

''(5) $50,000,000 for fiscal year 2010.''.

(b) RECLASSIFICATION.—The Law Revision Counsel shall reclassify the Methane Hydrate Research and Development Act of 2000 (30 U.S.C. 1902 note; Public Law 106–193) to a new chapter at the end of title 30, United States Code.

SEC. 954. RESEARCH AND DEVELOPMENT FOR COAL MINING TECHNOLOGIES.

(a) ESTABLISHMENT.—The Secretary shall carry out a program for research and development on coal mining technologies.

(b) COOPERATION.—In carrying out the program, the Secretary shall cooperate with appropriate Federal agencies, coal producers, trade associations, equipment manufacturers, institutions of higher education with mining engineering departments, and other relevant entities.

(c) PROGRAM.—The research and development activities carried out under this section shall—

(1) be guided by the mining research and development priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) include activities exploring minimization of contaminants in mined coal that contribute to environmental concerns including development and demonstration of electromagnetic wave imaging ahead of mining operations;

(3) develop and demonstrate coal bed electromagnetic wave imaging, spectroscopic reservoir analysis technology, and techniques for horizontal drilling in order to—

(A) identify areas of high coal gas content;

(B) increase methane recovery efficiency;

(C) prevent spoilage of domestic coal reserves; and

(D) minimize water disposal associated with methane extraction; and

(4) expand mining research capabilities at institutions of higher education.

SEC. 955. COAL AND RELATED TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—In addition to the programs authorized under title II, the Secretary shall conduct a program of technology research, development, and demonstration and commercial application for coal and power systems, including programs to facilitate production and generation of coal-based power through—

(1) innovations for existing plants;

(2) integrated gasification combined cycle;

(3) advanced combustion systems;

(4) turbines for synthesis gas derived from coal;

(5) carbon capture and sequestration research and development;

(6) coal-derived transportation fuels and chemicals;

(7) liquid fuels derived from low rank coal water;

(8) removal of elemental mercury;

(9) solid fuels and feedstocks; and

(10) advanced coal-related research.

(b) COST AND PERFORMANCE GOALS.—

(1) IN GENERAL.—In carrying out programs authorized by this section, the Secretary

shall identify cost and performance goals for coal-based technologies that would permit the continued cost-competitive use of coal for electricity generation, as chemical feedstocks, and as transportation fuel in 2007, 2010, 2012, and 2015.

(2) ADMINISTRATION.—In establishing the cost and performance goals, the Secretary shall—

(A) consider activities and studies undertaken as of the date of enactment of this Act by industry in cooperation with the Department in support of the identification of the goals;

(B) consult with interested entities, including—

(i) coal producers;

(ii) industries using coal;

(iii) organizations that promote coal and advanced coal technologies;

(iv) environmental organizations; and

(v) organizations representing workers;

(C) not later than 120 days after the date of enactment of this Act, publish in the Federal Register proposed draft cost and performance goals for public comments; and

(D) not later than 180 days after the date of enactment of this Act and every 4 years thereafter, submit to Congress a report describing the final cost and performance goals for the technologies that includes—

(i) a list of technical milestones; and

(ii) an explanation of how programs authorized in this section will not duplicate the activities authorized under the Clean Coal Power Initiative authorized under title II.

(c) POWDER RIVER BASIN AND FORT UNION LIGNITE COAL MERCURY REMOVAL.—

(1) IN GENERAL.—In addition to the programs authorized by subsection (a), the Secretary may establish a program to test and develop technologies to control and remove mercury emissions from subbituminous coal mined in the Powder River Basin, and Fort Union lignite coals, that are used for the generation of electricity.

(2) EFFICACY OF MERCURY REMOVAL TECHNOLOGY.—In carrying out the program under paragraph (1), the Secretary shall examine the efficacy of mercury removal technologies on coals described in that paragraph that are blended with other types of coal.

SEC. 956. CARBON DIOXIDE CAPTURE RESEARCH AND DEVELOPMENT.

(a) PROGRAM.—The Secretary shall establish a program of research and development aimed at developing carbon dioxide capture technologies for pulverized coal combustion units.

(b) FOCUS.—The program under subsection (a) shall focus on—

(1) developing add-on carbon dioxide capture technologies, such as adsorption and absorption techniques and chemical processes, to remove carbon dioxide from the flue gas, producing concentrated streams of carbon dioxide potentially amenable to sequestration;

(2) combustion technologies that would directly produce concentrated streams of carbon dioxide potentially amenable to sequestration; and

(3) minimizing the efficiency losses associated with carbon capture and sequestration.

(b) CARBON SEQUESTRATION.—In conjunction with the program under subsection (a), the Secretary shall continue pursuit of a carbon sequestration program involving public-private partnerships.

SEC. 957. COMPLEX WELL TECHNOLOGY TESTING FACILITY.

The Secretary, in coordination with industry leaders in extended research drilling technology, shall establish a Complex Well Technology Testing Facility at the Rocky Mountain Oilfield Testing Center to increase the range of extended drilling technologies.

Subtitle F—Science

SEC. 961. SCIENCE.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out research, development, demonstration, and commercial application activities of the Office of Science, including activities authorized under this subtitle (including the amounts authorized under the amendment made by section 967(b) and including basic energy sciences, advanced scientific and computing research, biological and environmental research, fusion energy sciences, high energy physics, nuclear physics, research analysis, and infrastructure support)—

(1) $4,153,000,000 for fiscal year 2006;

(2) $4,586,000,000 for fiscal year 2007; and

(3) $5,000,000,000 for fiscal year 2008.

(b) ALLOCATIONS.—From amounts authorized under subsection (a), the following sums are authorized:

(1) For activities under the Fusion Energy Sciences program (including activities under section 962)—

(A) $349,000,000 for fiscal year 2006;

(B) $362,000,000 for fiscal year 2007; and

(C) $377,000,000 for fiscal year 2008.

(2) For activities under the catalysis research program established under section 964—

(A) $35,000,000 for fiscal year 2006;

(B) $36,500,000 for fiscal year 2007; and

(C) $38,200,000 for fiscal year 2008.

(3) For activities under the Genomes to Life Program established under section 968—

(A) $170,000,000 for fiscal year 2006;

(B) $325,000,000 for fiscal year 2007; and

(C) $415,000,000 for fiscal year 2008.

(4) For construction and ancillary equipment for user facilities under section 968(d) for the Genomes to Life Program, of the amounts authorized under paragraph (3)—

(A) $70,000,000 for fiscal year 2006;

(B) $175,000,000 for fiscal year 2007; and

(C) $215,000,000 for fiscal year 2008.

(5) For activities under the Energy-Water Supply Technologies Program established under section 970, $30,000,000 for each of fiscal years 2006 through 2008.

(c) FUSION ENERGY SCIENCES PROGRAM.—In addition to the funds authorized under subsection (b)(1), there are authorized to be appropriated for construction costs associated with the Fusion Energy Sciences Program under section 962—

(1) $55,000,000 for fiscal year 2006;

(2) $95,000,000 for fiscal year 2007; and

(3) $115,000,000 for fiscal year 2008.

SEC. 962. FUSION ENERGY SCIENCES PROGRAM.

(a) DECLARATION OF POLICY.—It shall be the policy of the United States to conduct research, development, demonstration, and commercial applications to provide for the scientific, engineering, and commercial infrastructure necessary to ensure that the United States is competitive with other countries in providing fusion energy for its own needs and the needs of other countries, including by demonstrating electric power or hydrogen production for the United States energy grid using fusion energy at the earliest date.

(b) PLANNING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a plan (with proposed cost estimates, budgets, and lists of potential international partners) for the implementation of the policy described in subsection (a) in a manner that ensures that—

(A) existing fusion research facilities are more fully used;

(B) fusion science, technology, theory, advanced computation, modeling, and simulation are strengthened;

(C) new magnetic and inertial fusion research and development facilities are selected based on scientific innovation and cost effectiveness, and the potential of the facilities to advance the goal of practical fusion energy at the earliest date practicable;

(D) facilities that are selected are funded at a cost-effective rate;

(E) communication of scientific results and methods between the fusion energy science community and the broader scientific and technology communities is improved;

(F) inertial confinement fusion facilities are used to the extent practicable for the purpose of inertial fusion energy research and development;

(G) attractive alternative inertial and magnetic fusion energy approaches are more fully explored; and

(H) to the extent practicable, the recommendations of the Fusion Energy Sciences Advisory Committee in the report on workforce planning, dated March 2004, are carried out, including periodic reassessment of program needs.

(2) COSTS AND SCHEDULES.—The plan shall also address the status of and, to the extent practicable, costs and schedules for—

(A) the design and implementation of international or national facilities for the testing of fusion materials; and

(B) the design and implementation of international or national facilities for the testing and development of key fusion technologies.

(c) UNITED STATES PARTICIPATION IN ITER.—

(1) DEFINITIONS.—In this subsection:

(A) CONSTRUCTION.—

(i) IN GENERAL.—The term ''construction'' means—

(I) the physical construction of the ITER facility; and

(II) the physical construction, purchase, or manufacture of equipment or components that are specifically designed for the ITER facility.

(ii) EXCLUSIONS.—The term ''construction'' does not include the design of the facility, equipment, or components.

(B) ITER.—The term ''ITER'' means the international burning plasma fusion research project in which the President announced United States participation on January 30, 2003, or any similar international project.

(2) PARTICIPATION.—The United States may participate in the ITER only in accordance with this subsection.

(3) AGREEMENT.—

(A) IN GENERAL.—The Secretary may negotiate an agreement for United States participation in the ITER.

(B) CONTENTS.—Any agreement for United States participation in the ITER shall, at a minimum—

(i) clearly define the United States financial contribution to construction and operating costs, as well as any other costs associated with a project;

(ii) ensure that the share of high-technology components of the ITER manufactured in the United States is at least proportionate to the United States financial contribution to the ITER;

(iii) ensure that the United States will not be financially responsible for cost overruns in components manufactured in other ITER participating countries;

(iv) guarantee the United States full access to all data generated by the ITER;

(v) enable United States researchers to propose and carry out an equitable share of the experiments at the ITER;

(vi) provide the United States with a role in all collective decisionmaking related to the ITER; and

(vii) describe the process for discontinuing or decommissioning the ITER and any United States role in that process.

(4) PLAN.—

(A) DEVELOPMENT.—The Secretary, in consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for the participation of United States scientists in the ITER that shall include—

(i) the United States research agenda for the ITER;

(ii) methods to evaluate whether the ITER is promoting progress toward making fusion a reliable and affordable source of power; and

(iii) a description of how work at the ITER will relate to other elements of the United States fusion program.

(B) REVIEW.—The Secretary shall request a review of the plan by the National Academy of Sciences.

(5) LIMITATION.—No Federal funds shall be expended for the construction of the ITER until the Secretary has submitted to Congress—

(A) the agreement negotiated in accordance with paragraph (3) and 120 days have elapsed since that submission;

(B) a report describing the management structure of the ITER and providing a fixed dollar estimate of the cost of United States participation in the construction of the ITER, and 120 days have elapsed since that submission;

(C) a report describing how United States participation in the ITER will be funded without reducing funding for other programs in the Office of Science (including other fusion programs), and 60 days have elapsed since that submission; and

(D) the plan required by paragraph (4) (but not the National Academy of Sciences review of that plan), and 60 days have elapsed since that submission.

(6) ALTERNATIVE TO ITER.—

(A) IN GENERAL.—If at any time during the negotiations on the ITER, the Secretary determines that construction and operation of the ITER is unlikely or infeasible, the Secretary shall submit to Congress, along with the budget request of the President submitted to Congress for the following fiscal year, a plan for implementing a domestic burning plasma experiment such as the Fusion Ignition Research Experiment, including costs and schedules for the plan.

(B) ADMINISTRATION.—The Secretary shall—

(i) refine the plan in full consultation with the Fusion Energy Sciences Advisory Committee; and

(ii) transmit the plan to the National Academy of Sciences for review.

SEC. 963. SUPPORT FOR SCIENCE AND ENERGY FACILITIES AND INFRASTRUCTURE.

(a) FACILITY AND INFRASTRUCTURE POLICY.—

(1) IN GENERAL.—The Secretary shall develop and implement a strategy for facilities and infrastructure supported primarily from the Office of Science, the Office of Energy Efficiency and Renewable Energy, the Office of Fossil Energy, or the Office of Nuclear Energy, Science and Technology Programs at all National Laboratories and single-purpose research facilities.

(2) STRATEGY.—The strategy shall provide cost-effective means for—

(A) maintaining existing facilities and infrastructure;

(B) closing unneeded facilities;

(C) making facility modifications; and

(D) building new facilities.

(b) REPORT.—

(1) IN GENERAL.—The Secretary shall prepare and submit, along with the budget request of the President submitted to Congress for fiscal year 2007, a report describing the strategy developed under subsection (a).

(2) CONTENTS.—For each National Laboratory and single-purpose research facility that is primarily used for science and energy research, the report shall contain—

(A) the current priority list of proposed facilities and infrastructure projects, including cost and schedule requirements;

(B) a current 10-year plan that demonstrates the reconfiguration of its facilities and infrastructure to meet its missions and to address its long-term operational costs and return on investment;

(C) the total current budget for all facilities and infrastructure funding; and

(D) the current status of each facility and infrastructure project compared to the original baseline cost, schedule, and scope.

SEC. 964. CATALYSIS RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in catalysis science consistent with the statutory authorities of the Department related to research and development.

(b) COMPONENTS.—The program shall include efforts to—

(1) enable catalyst design using combinations of experimental and mechanistic methodologies coupled with computational modeling of catalytic reactions at the molecular level;

(2) develop techniques for high throughput synthesis, assay, and characterization at nanometer and subnanometer scales in situ under actual operating conditions;

(3) synthesize catalysts with specific site architectures;

(4) conduct research on the use of precious metals for catalysis; and

(5) translate molecular understanding to the design of catalytic compounds.

(c) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program, the Director of the Office of Science shall—

(1) support both individual investigators and multidisciplinary teams of investigators to pioneer new approaches in catalytic design;

(2) develop, plan, construct, acquire, share, or operate special equipment or facilities for the use of investigators in collaboration with national user facilities, such as nanoscience and engineering centers;

(3) support technology transfer activities to benefit industry and other users of catalysis science and engineering; and

(4) coordinate research and development activities with industry and other Federal agencies.

(d) TRIENNIAL ASSESSMENT.—Not later than 3 years after the date of enactment of this Act and every 3 years thereafter, the National Academy of Sciences shall—

(1) review the catalysis program to measure—

(A) gains made in the fundamental science of catalysis; and

(B) progress towards developing new fuels for energy production and material fabrication processes; and

(2) submit to Congress a report describing the results of the review.

SEC. 965. HYDROGEN.

(a) IN GENERAL.—The Secretary shall conduct a program of fundamental research and development in support of programs authorized under title VIII.

(b) METHODS.—The program shall include support for methods of generating hydrogen without the use of natural gas.

SEC. 966. SOLID STATE LIGHTING.

The Secretary shall conduct a program of fundamental research on advance solid state lighting in support of the Next Generation Lighting Initiative carried out under section 912.

SEC. 967. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.

(a) PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct an advanced scientific computing research and development program that includes activities related to applied mathematics and activities authorized by the Department of Energy High-End Computing Revitalization Act of 2004 (15 U.S.C. 5541 et seq.).

(2) GOAL.—The Secretary shall carry out the program with the goal of supporting departmental missions, and providing the high-performance computational, networking, advanced visualization technologies, and workforce resources, that are required for world leadership in science.

(b) HIGH-PERFORMANCE COMPUTING.—Section 203 of the High-Performance Computing Act of 1991 (15 U.S.C. 5523) is amended to read as follows:

"SEC. 203. DEPARTMENT OF ENERGY ACTIVITIES.

''(a) GENERAL RESPONSIBILITIES.—As part of the Program described in title I, the Secretary of Energy shall—

''(1) conduct and support basic and applied research in high-performance computing and networking to support fundamental research in science and engineering disciplines related to energy applications; and

''(2) provide computing and networking infrastructure support, including—

''(A) the provision of high-performance computing systems that are among the most advanced in the world in terms of performance in solving scientific and engineering problems; and

''(B) support for advanced software and applications development for science and engineering disciplines related to energy applications.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy such sums as are necessary to carry out this section.''.

SEC. 968. GENOMES TO LIFE PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a program of research, development, demonstration, and commercial application, to be known as the ''Genomes to Life Program'', in microbial and plant systems biology, protein science, and computational biology consistent with the statutory authorities of the Department.

(b) PLANNING.—

(1) IN GENERAL.—The Secretary shall prepare a program plan that describes how knowledge and capabilities would be developed by the program and applied to missions of the Department relating to energy security, environmental cleanup, and national security.

(2) CONSULTATION.—The Secretary shall prepare the program plan in consultation with the heads of other Federal agencies that carry out relevant technology programs.

(3) LONG-TERM GOALS.—In preparing the program plan, the Secretary shall focus on applying science and technology to achieve the long-term goals of the program, including—

(A) contributing to the independence of the United States from foreign energy sources, including production of hydrogen;

(B) converting carbon dioxide to organic carbon;

(C) advancing environmental cleanup;

(D) providing the science and technology for new biotechnology industries; and

(E) improving national security and combating bioterrorism.

(4) SHORT-TERM GOALS.—In preparing the program plan, the Secretary shall—

(A) establish specific short-term goals; and

(B) update the goals with the annual budget submission of the Secretary.

(c) ADMINISTRATION.—In carrying out the program, the Secretary shall—

(1) support individual investigators and multidisciplinary teams of investigators;

(2) subject to subsection (d), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research, development, demonstration, or commercial application in systems biology and proteomics;

(3) support technology transfer activities to benefit industry and other users of systems biology and proteomics; and

(4) coordinate activities by the Department with industry and other Federal agencies.

(d) GENOMES TO LIFE USER FACILITIES AND ANCILLARY EQUIPMENT.—

(1) IN GENERAL.—Subject to the availability of funds to carry out this subsection, the amounts made available under section 961(b)(4) shall be available for—

(A) projects to develop, plan, construct, acquire, or operate special equipment, or instrumentation; or

(B) facilities at National Laboratories for investigators conducting research, development, demonstration, and commercial application in systems biology and proteomics and associated biological disciplines.

(2) PROJECTS.—Projects under paragraph (1)(A) may include—

(A) the identification and characterization of multiprotein complexes;

(B) characterization of gene regulatory networks;

(C) characterization of the functional repertoire of complex microbial communities in their natural environments at the molecular level; and

(D) development of computational methods and capabilities to advance understanding of complex biological systems and predict their behavior.

(3) FACILITIES.—Facilities under paragraph (1)(B) may include facilities, equipment, or instrumentation for—

(A) the production and characterization of proteins;

(B) whole proteome analysis;

(C) characterization and imaging of molecular machines; and

(D) analysis and modeling of cellular systems.

(4) FACILITIES LOCATION AND MISSION.—The number, location, and mission of facilities under paragraph (1)(B) shall be determined in a plan provided by the Secretary to Congress before the construction of any such facility.

(5) COLLABORATION.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary shall encourage collaborations among institutions of higher education, National Laboratories, and industry at facilities.

(B) TECHNOLOGY TRANSFER.—All facilities under this subsection shall promote technology transfer to other institutions.

SEC. 969. FISSION AND FUSION ENERGY MATERIALS RESEARCH PROGRAM.

(a) IN GENERAL.—Along with the budget request of the President submitted to Congress for fiscal year 2007, the Secretary shall establish a research and development program on material science issues presented by advanced fission reactors and the fusion energy program of the Department.

(b) ADMINISTRATION.—In carrying out the program, the Secretary shall develop—

(1) a catalog of material properties required for applications described in subsection (a);

(2) theoretical models for materials possessing the required properties;

(3) benchmark models against existing data; and

(4) a roadmap to guide further research and development in the area covered by the program.

SEC. 970. ENERGY-WATER SUPPLY TECHNOLOGIES PROGRAM.

(a) DEFINITIONS.—In this section:

(1) FOUNDATION.—The term ''Foundation'' means the American Water Works Association Research Foundation.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(3) PROGRAM.—The term ''Program'' means the Energy-Water Supply Technologies Program established by subsection (b).

(b) ESTABLISHMENT.—There is established, within the Office of Biological and Environmental Research of the Office of Science, a program, to be known as the ''Energy-Water Supply Technologies Program'', to study—

(1) energy-related issues associated with water resources and municipal waterworks; and

(2) supply issues related to energy production.

(c) PROGRAM AREAS.—In carrying out the Program, the Secretary shall conduct research and development, including research and development relating to—

(1) the arsenic removal program under subsection (d);

(2) the desalination research program under subsection (e);

(3) the water and energy sustainability program under subsection (f); and

(4) other energy-intensive water supply and treatment technologies and other technologies selected by the Secretary.

(d) ARSENIC REMOVAL PROGRAM.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall enter into a contract with the Foundation to use the facilities, institutions, and relationships described in the matter under the heading ''BIOLOGICAL AND ENVIRONMENTAL RESEARCH'' of title III of Senate Report 107–220 to accompany the Consolidated Appropriations Resolution, 2003 (Public Law 108–7) to carry out a research program to develop and demonstrate innovative arsenic removal technologies.

(2) RESEARCH.—In carrying out the arsenic removal program, the Foundation shall, to the maximum extent practicable, conduct research on means of—

(A) reducing energy costs incurred in using arsenic removal technologies;

(B) minimizing materials, operating, and maintenance costs incurred in using arsenic removal technologies; and

(C) minimizing any quantities of waste (especially hazardous waste) that result from use of arsenic removal technologies.

(3) DEMONSTRATION PROJECTS.—The Foundation shall carry out peer-reviewed research and demonstration projects to develop and demonstrate water purification technologies.

(4) ADMINISTRATION.—Under the arsenic removal program—

(A) demonstration projects shall be implemented with municipal water system partners to demonstrate the applicability of innovative arsenic removal technologies in areas with different water chemistries representative of areas across the United States with arsenic levels near or exceeding the guidelines of the Environmental Protection Agency; and

(B) not less than 40 percent of the funds of the Department used for demonstration projects under the arsenic removal program shall be expended on projects focused on the needs of and in partnership with rural communities or Indian tribes.

(5) EVALUATIONS; TECHNOLOGY TRANSFER.—The Foundation shall develop evaluations of cost effectiveness of arsenic removal technologies used in the program and an education, training, and technology transfer component for the program.

(6) COORDINATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency to ensure that activities under the arsenic removal program are coordinated with appropriate programs of the Environmental Protection Agency and other Federal agencies, State programs, and academia.

(7) REPORTS.—Not later than 1 year after the date of commencement of the arsenic removal program and annually thereafter, the Secretary shall submit to Congress a report on the results of the arsenic removal program.

(e) DESALINATION PROGRAM.—

(1) IN GENERAL.—The Secretary, in cooperation with the Commissioner of Reclamation, shall carry out a desalination research program in accordance with the desalination technology progress plan developed under the matter under the heading ''WATER AND RELATED RESOURCES'' under the heading ''BUREAU OF RECLAMATION'' of title II of the Energy and Water Development Appropriations Act, 2002 (115 Stat. 498) and described in Senate Report 107–39 to accompany S. 1171 (107th Congress).

(2) ADMINISTRATION.—The desalination program shall—

(A) draw on the national laboratory partnership established with the Bureau of Reclamation to develop the national Desalination and Water Purification Technology Roadmap for next-generation desalination technology released in January 2003;

(B) focus on research relating to, and development and demonstration of, technologies that are appropriate for use in desalinating brackish groundwater, wastewater, and other saline water supplies and disposal of residual brine or salt; and

(C) consider the use of renewable energy sources.

(3) CONSTRUCTION PROJECTS.—Under the desalination program, funds made available for the program may be used for construction projects, including completion of the National Desalination Research Center for brackish groundwater and ongoing facility operational costs.

(4) STEERING COMMITTEE.—

(A) ESTABLISHMENT.—The Secretary and the Commissioner of Reclamation shall jointly establish a steering committee for the desalination program.

(B) CHAIR.—The steering committee shall be jointly chaired by—

(i) 1 representative from the Program; and

(ii) 1 representative from the Bureau of Reclamation.

(f) WATER AND ENERGY SUSTAINABILITY PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a research program to develop technologies to assist in ensuring that sufficient quantities of water are available to meet present and future requirements.

(2) ASSESSMENTS.—Under the program and in collaboration with other programs within the Department (including programs within the Offices of Fossil Energy and Energy Efficiency and Renewable Energy), the Secretary of the Interior, the Corps of Engineers, the Environmental Protection Agency, the Department of Commerce, the Department of Defense, State agencies, nongovernmental agencies, and academia, the Secretary shall assess the current state of knowledge and program activities concerning—

(A) future water resources needed to support energy production within the United States, including the water needs for hydropower and thermo-electric power generation;

(B) future energy resources needed to support development of water purification and treatment, including desalination and long-distance water conveyance;

(C) reuse and treatment of water produced as a byproduct of oil and gas extraction;

(D) use of impaired and nontraditional water supplies for energy production and other uses; and

(E) technologies to reduce water use in energy production.

(3) TOOLS.—In addition to the assessments conducted under paragraph (2), the Secretary shall—

(A) develop a research plan that defines the scientific and technology development needs and activities required to support—

(i) long-term water needs and planning for energy sustainability;

(ii) use of impaired water for energy production and other uses; and

(iii) reduction of water use in energy production;

(B) carry out the research plan required under subparagraph (A), including development of numerical models, decision analysis tools, economic analysis tools, databases, planning methodologies, and strategies;

(C) implement at least 3 planning demonstration projects using the models, tools, and planning approaches developed under subparagraph (B) and assess the viability of those tools on the scale of river basins with at least 1 demonstration involving an international border; and

(D) transfer those tools to other Federal agencies, State agencies, nonprofit organizations, industry, and academia for use in their energy and water sustainability efforts.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the water and energy sustainability program that—

(A) describes the research elements described under paragraph (2); and

(B) makes recommendations for a management structure that optimizes use of Federal resources and programs.

(g) COST SHARING.—

(1) RESEARCH PROJECTS.—A research project under this section shall not require cost-sharing.

(2) DEMONSTRATION PROJECTS.—Each demonstration project carried out under the Program shall be carried out in accordance with the cost-sharing requirements of section 1002.

SEC. 971. SPALLATION NEUTRON SOURCE.

(a) DEFINITIONS.—In this section:

(1) SING.—The term ''SING'' means the Spallation Neutron Source Instruments Next Generation major item of equipment.

(2) SNS POWER UPGRADE.—The term ''SNS power upgrade'' means the Spallation Neutron Source power upgrade described in the 20-year facilities plan of the Office of Science of the Department.

(3) SNS SECOND TARGET STATION.—The term ''SNS second target station'' the Spallation Neutron Source second target station described in the 20-year facilities plan of the Office of Science of the Department.

(4) SPALLATION NEUTRON SOURCE FACILITY.—The terms ''Spallation Neutron Source Facility'' and ''Facility'' mean the completed Spallation Neutron Source scientific user facility located at Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(5) SPALLATION NEUTRON SOURCE PROJECT.—The terms ''Spallation Neutron Source Project'' and ''Project'' means Department Project 99–E–334, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

(b) SPALLATION NEUTRON SOURCE PROJECT.—

(1) IN GENERAL.—The Secretary shall submit to Congress, as part of the annual budget request of the President submitted to Congress, a report on progress on the Spallation Neutron Source Project.

(2) CONTENTS.—The report shall include for the Project—

(A) a description of the achievement of milestones;

(B) a comparison of actual costs to estimated costs; and

(C) any changes in estimated Project costs or schedule.

(c) SPALLATION NEUTRON SOURCE FACILITY PLAN.—

(1) IN GENERAL.—The Secretary shall develop an operational plan for the Spallation Neutron Source Facility that ensures that the Facility is employed to the full capability of the Facility in support of the study of advanced materials, nanoscience, and other missions of the Office of Science of the Department.

(2) PLAN.—The operational plan shall—

(A) include a plan for the operation of an effective scientific user program that—

(i) is based on peer review of proposals submitted for use of the Facility;

(ii) includes scientific and technical support to ensure that external users, including researchers based at institutions of higher education, are able to make full use of a variety of high quality scientific instruments; and

(iii) phases in systems upgrades to ensure that the Facility remains at the forefront of international scientific endeavors in the field of the Facility throughout the operating life of the Facility;

(B) include an ongoing program to develop new instruments that builds on the high performance neutron source and that allows neutron scattering techniques to be applied to a growing range of scientific problems and disciplines; and

(C) address the status of and, to the maximum extent practicable, costs and schedules for—

(i) full user mode operations of the Facility;

(ii) instrumentation built at the Facility during the operating phase through full use of the experimental hall, including the SING;

(iii) the SNS power upgrade; and

(iv) the SNS second target station.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) SPALLATION NEUTRON SOURCE PROJECT.—There is authorized to be appropriated to carry out the Spallation Neutron Source Project for the lifetime of the Project $1,411,700,000 for total project costs, of which—

(A) $1,192,700,000 shall be used for the costs of construction; and

(B) $219,000,000 shall be used for other Project costs.

(2) SPALLATION NEUTRON SOURCE FACILITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there is authorized to be appropriated for the Spallation Neutron Source Facility for—

(i) the SING, $75,000,000 for fiscal year 2006; and

(ii) the SNS power upgrade, $160,000,000 for each of fiscal years 2007 and 2008.

(B) INSUFFICIENT STOCKPILES OF HEAVY WATER.—If stockpiles of heavy water of the Department are insufficient to meet the needs of the Facility, there is authorized to be appropriated for the Facility $172,000,000 for fiscal year 2007.

Subtitle G—International Cooperation

SEC. 981. WESTERN HEMISPHERE ENERGY COOPERATION.

(a) PROGRAM.—The Secretary shall carry out a program to promote cooperation on energy issues with countries of the Western Hemisphere.

(b) ACTIVITIES.—Under the program, the Secretary shall fund activities to work with countries of the Western Hemisphere to—

(1) increase the production of energy supplies;

(2) improve energy efficiency; and

(3) assist in the development and transfer of energy supply and efficiency technologies that would have a beneficial impact on world energy markets.

(c) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION.—To the extent practicable, the Secretary shall carry out the program under this section with the participation of institutions of higher education so as to take advantage of the acceptance of institutions of higher education by countries of the Western Hemisphere as sources of unbiased technical and policy expertise when assisting the Secretary in—

(1) evaluating new technologies;

(2) resolving technical issues;

(3) working with those countries in the development of new policies; and

(4) training policymakers, particularly in the case of institutions of higher education that involve the participation of minority students, such as—

(A) Hispanic-serving institutions; and

(B) part B institutions.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $10,000,000 for fiscal year 2006;

(2) $13,000,000 for fiscal year 2007; and

(3) $16,000,000 for fiscal year 2008.

SEC. 982. COOPERATION BETWEEN UNITED STATES AND ISRAEL.

(a) FINDINGS.—Congress finds that—

(1) on February 1, 1996, the United States and Israel signed the agreement entitled ''Agreement between the Department of Energy of the United States of America and the Ministry of Energy and Infrastructure of Israel Concerning Energy Cooperation'', (referred to in this section as the ''Agreement'') to establish a framework for collaboration between the United States and Israel in energy research and development activities;

(2) the Agreement entered into force in February 2000;

(3) in February 2005, the Agreement was automatically renewed for 1 additional 5-year period pursuant to Article X of the Agreement; and

(4) under the Agreement, the United States and Israel may cooperate in energy research and development in a variety of alternative and advanced energy sectors.

(b) REPORT TO CONGRESS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes—

(1) the ways in which the United States and Israel have cooperated on energy research and development activities under the Agreement;

(2) projects initiated pursuant to the Agreement; and

(3) plans for future cooperation and joint projects under the Agreement.

(c) SENSE OF CONGRESS.—It is the sense of Congress that energy cooperation between the Governments of the United States and Israel is mutually beneficial in the development of energy technology.

TITLE X—DEPARTMENT OF ENERGY MANAGEMENT

SEC. 1001. AVAILABILITY OF FUNDS.

Funds authorized to be appropriated to the Department under this Act or an amendment made by this Act shall remain available until expended.

SEC. 1002. COST SHARING.

(a) APPLICABILITY.—Notwithstanding any other provision of law, in carrying out a research, development, demonstration, or commercial application activity that is initiated after the date of enactment of this section, the Secretary shall require cost-sharing in accordance with this section.

(b) RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3) and subsection (f), the Secretary shall require not less than 20 percent of the cost of a research or development activity described in subsection (a) to be provided by a non-Federal source.

(2) EXCLUSION.—Paragraph (1) shall not apply to a research or development activity described in subsection (a) that is of a basic or fundamental nature, as determined by the appropriate officer of the Department.

(3) REDUCTION.—The Secretary may reduce or eliminate the requirement of paragraph (1) for a research and development activity of an applied nature if the Secretary determines that the reduction is necessary and appropriate.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (f), the Secretary shall require that not less than 50 percent of the cost of a demonstration or commercial application activity described in subsection (a) to be provided by a non-Federal source.

(2) REDUCTION OF NON-FEDERAL SHARE.—The Secretary may reduce the non-Federal share required under paragraph (1) if the Secretary determines the reduction to be necessary and appropriate, taking into consideration any technological risk relating to the activity.

(d) CALCULATION OF AMOUNT.—In calculating the amount of a non-Federal contribution under this section, the Secretary—

(1) may include allowable costs in accordance with the applicable cost principles, including—

(A) cash;

(B) personnel costs;

(C) the value of a service, other resource, or third party in-kind contribution determined in accordance with the applicable circular of the Office of Management and Budget;

(D) indirect costs or facilities and administrative costs; or

(E) any funds received under the power program of the Tennessee Valley Authority (except to the extent that such funds are made available under an annual appropriation Acts); and

(2) shall not include—

(A) revenues or royalties from the prospective operation of an activity beyond the time considered in the award;

(B) proceeds from the prospective sale of an asset of an activity; or

(C) other appropriated Federal funds.

(e) REPAYMENT OF FEDERAL SHARE.—The Secretary shall not require repayment of the Federal share of a cost-shared activity under this section as a condition of making an award.

(f) EXCLUSIONS.—This section shall not apply to—

(1) a cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1990 (15 U.S.C. 3701 et seq.);

(2) a fee charged for the use of a Department facility; or

(3) an award under—

(A) the small business innovation research program under section 9 of the Small Business Act (15 U.S.C. 638); or

(B) the small business technology transfer program under that section.

SEC. 1003. MERIT REVIEW OF PROPOSALS.

Awards of funds authorized under this Act or an amendment made by this Act shall be made only after an impartial review of the scientific and technical merit of the proposals for the awards has been carried out by or for the Department.

SEC. 1004. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.

(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—

(1) ESTABLISHMENT.—The Secretary shall establish 1 or more advisory boards to review research, development, demonstration, and commercial application programs of the Department in energy efficiency, renewable energy, nuclear energy, and fossil energy.

(2) ALTERNATIVES.—The Secretary may—

(A) designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this section; and

(B) enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.

(b) USE OF EXISTING COMMITTEES.—The Secretary shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act (5 U.S.C. App.) by the Office of Science to oversee research and development programs under that Office.

(c) MEMBERSHIP.—Each advisory board under this section shall consist of persons with appropriate expertise representing a diverse range of interests.

(d) MEETINGS AND GOALS.—

(1) MEETINGS.—Each advisory board under this section shall meet at least semiannually to review and advise on the progress made by the respective 1 or more research, development, demonstration, and commercial application programs.

(2) GOALS.—The advisory board shall review the measurable cost and performance-based goals for the programs as established under section 902, and the progress on meeting the goals.

(e) PERIODIC REVIEWS AND ASSESSMENTS.—

(1) IN GENERAL.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences to conduct periodic reviews and assessments of—

(A) the programs authorized by this Act and amendments made by this Act;

(B) the measurable cost and performance-based goals for the programs as established under section 902, if any; and

(C) the progress on meeting the goals.

(2) TIMING.—The reviews and assessments shall be conducted every 5 years or more often as the Secretary considers necessary.

(3) REPORTS.—The Secretary shall submit to Congress reports describing the results of all the reviews and assessments.

SEC. 1005. IMPROVED TECHNOLOGY TRANSFER OF ENERGY TECHNOLOGIES.

(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to be the principal advisor to the Secretary on all matters relating to technology transfer and commercialization.

(b) QUALIFICATIONS.—The Coordinator shall be an individual who, by reason of professional background and experience, is specially qualified to advise the Secretary on matters pertaining to technology transfer at the Department.

(c) DUTIES OF THE COORDINATOR.—The Coordinator shall oversee—

(1) the activities of the Technology Transfer Working Group established under subsection (d);

(2) the expenditure of funds allocated for technology transfer within the Department;

(3) the activities of each technology partnership ombudsman appointed under section 11 of the Technology Transfer Commercialization Act of 2000 (42 U.S.C. 7261c); and

(4) efforts to engage private sector entities, including venture capital companies.

(d) TECHNOLOGY TRANSFER WORKING GROUP.—The Secretary shall establish a Technology Transfer Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—

(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;

(2) exchange information about technology transfer practices, including alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters; and

(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department, including opportunities and procedures related to alternative approaches to resolution of disputes involving intellectual property rights and other technology transfer matters.

(e) TECHNOLOGY COMMERCIALIZATION FUND.—The Secretary shall establish an Energy Technology Commercialization Fund, using 0.5 percent of the amount made available to the Department for each fiscal year, to be used to provide matching funds with private partners to promote promising technologies for commercial purposes.

(f) TECHNOLOGY TRANSFER RESPONSIBILITY.—Nothing in this section affects the technology transfer responsibilities of Federal employees under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).

(g) PLANNING AND REPORTING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a technology transfer execution plan.

(2) UPDATES.—Each year after the submission of the plan under paragraph (1), the Secretary shall submit to Congress an updated execution plan and reports that describe progress toward meeting goals set forth in the execution plan and the funds expended under subsection (e).

SEC. 1006. TECHNOLOGY INFRASTRUCTURE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) PROGRAM.—The term ''Program'' means the Technology Infrastructure Program established under subsection (b).

(2) TECHNOLOGY CLUSTER.—The term ''technology cluster'' means a concentration of technology-related business concerns, institutions of higher education, or nonprofit institutions, that reinforce each other's performance in the areas of technology development through formal or informal relationships.

(3) TECHNOLOGY-RELATED BUSINESS CONCERN.—The term ''technology-related business concern'' means a for-profit corporation, company, association, firm, partnership, or small business concern that—

(A) conducts scientific or engineering research;

(B) develops new technologies;

(C) manufactures products based on new technologies; or

(D) performs technological services.

(b) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.

(c) PURPOSE.—The purpose of the Program shall be to improve the ability of National Laboratories and single-purpose research facilities to support departmental missions by—

(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;

(2) improving the ability of National Laboratories and single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and

(3) encouraging the exchange of scientific and technological expertise between—

(A) National Laboratories or single-purpose research facilities; and

(B) entities that can support departmental missions at the National Laboratories or single-purpose research facilities, such as—

(i) institutions of higher education;

(ii) technology-related business concerns;

(iii) nonprofit institutions; and

(iv) agencies of State, tribal, or local governments.

(d) PROJECTS.—The Secretary shall authorize the director of each National Laboratory or single-purpose research facility to implement the Program at the National Laboratory or facility through 1 or more projects that meet the requirements of subsections (e) and (f).

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Each project funded under this section shall meet the requirements of this subsection.

(2) ENTITIES.—Each project shall include at least 1 of each of the following entities:

(A) A business.

(B) An institution of higher education.

(C) A nonprofit institution.

(D) An agency of a State, local, or tribal government.

(3) COST-SHARING.—

(A) IN GENERAL.—The costs of carrying out projects under this section shall be shared in accordance with section 1002.

(B) SOURCES.—The calculation of costs paid by the non-Federal sources for a project shall include cash, personnel, services, equipment, and other resources expended on the project after the commencement of the project.

(C) RESEARCH AND DEVELOPMENT EXPENSES.—Independent research and development expenses of Government contractors that qualify for reimbursement under section 31.205–18(e) of title 48, Code of Federal Regulations, issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)), may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.

(4) COMPETITIVE SELECTION.—A project under this section shall be competitively selected using procedures determined by the Secretary.

(5) ACCOUNTING.—Any participant that receives funds under this section may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.

(6) DURATION.—No Federal funds shall be made available under this section for a construction project or for any project with a duration of more than 5 years.

(f) SELECTION CRITERIA.—

(1) DEPARTMENTAL MISSIONS.—The Secretary shall allocate funds under this section only if the 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) OTHER CRITERIA.—In selecting a project to receive Federal funds, the Secretary shall consider—

(A) the potential of the project to promote the development of a commercially sustainable technology cluster following the period of investment by the Department, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;

(B) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;

(C) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;

(D) the extent to which the project focuses on promoting the development of technology-related business concerns that are small businesses or involves such small businesses substantively in the project; and

(E) such other criteria as the Secretary determines to be appropriate.

(g) ALLOCATION.—In allocating funds for projects approved under this section, the Secretary shall provide—

(1) the Federal share of the project costs; and

(2) additional funds to the National Laboratory or single-purpose research facility managing the project to permit the National Laboratory or single-purpose research facility to carry out activities relating to the project, and to coordinate the activities with the project.

(h) REPORT TO CONGRESS.—Not later than July 1, 2008, the Secretary shall submit to Congress a report on whether the Program should be continued and, if so, how the program should be managed.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2006 through 2008.

SEC. 1007. SMALL BUSINESS ADVOCACY AND ASSISTANCE.

(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to designate a small business advocate to—

(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4))), 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 information on how to participate in procurement and collaborative research activities;

(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and

(5) establish guidelines for the program under subsection (b) and report on the effectiveness of the 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 with—

(1) assistance directed at making the small business concerns more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facilities; or

(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the products or services of the small business concern.

(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to small business concerns.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for activities under this section $5,000,000 for each of fiscal years 2006 through 2008.

SEC. 1008. OUTREACH.

The Secretary shall ensure that each program authorized by this Act or an amendment made by this Act includes an outreach component to provide information, as appropriate, to manufacturers, consumers, engineers, architects, builders, energy service companies, institutions of higher education, facility planners and managers, State and local governments, and other entities.

SEC. 1009. RELATIONSHIP TO OTHER LAWS.

Except as otherwise provided in this Act or an amendment made by this Act, the Secretary shall carry out the research, development, demonstration, and commercial application programs, projects, and activities authorized by this Act or an amendment made by this Act in accordance with the applicable provisions of—

(1) the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

(2) the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901 et seq.);

(3) the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.);

(4) the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.);

(5) chapter 18 of title 35, United States Code (commonly known as the ''Bayh-Dole Act''); and

(6) any other Act under which the Secretary is authorized to carry out the programs, projects, and activities.

SEC. 1010. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.

(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is amended by striking subsection (b) and inserting the following:

''(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.

''(2) 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.

''(3) 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.

''(4) The Under Secretary for Energy and Science shall—

''(A) serve as the Science and Technology Advisor to the Secretary;

''(B) monitor the research and development programs of the Department in order to advise the Secretary with respect to any undesirable duplication or gaps in the 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;

''(F) bear primary responsibility for energy conservation; and

''(G) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.''.

(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—

(1) IN GENERAL.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:

''OFFICE OF SCIENCE

''SEC. 209. (a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary for Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Assistant Secretary for Science shall be in addition to the Assistant Secretaries provided for under section 203.

''(c) It shall be the duty and responsibility of the Assistant Secretary for Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of the research, as well as other functions vested in the Secretary that the Secretary may assign to the Assistant Secretary.''.

(2) DIRECTOR OF THE OFFICE OF SCIENCE.—

(A) IN GENERAL.—Notwithstanding section 3345(b)(1) of title 5, United States Code, the President may designate the Director of the Office of Science who served immediately before the date of enactment of this Act to act in the office of the Assistant Secretary of Energy for Science until the office is filled as provided in section 209 of the Department of Energy Organization Act (as amended by paragraph (1)).

(B) COMPENSATION.—While so acting, the person shall receive compensation at the rate provided by section 209(a) of that Act (as amended by paragraph (1)) for the office of Assistant Secretary for Science.

(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—

(1) IN GENERAL.—Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended in the first sentence 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 7 Assistant Secretaries''.

(2) ASSISTANT SECRETARY LEVEL.—It is the sense of Congress that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) (as amended by subsection (b)(1)) is amended by adding at the end the following:

''(d)(1) 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.

''(2) 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)(1) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe.

''(2) 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—

(A) by striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''; and

(B) by striking ''Director, Office of Science, Department of Energy.''.

SEC. 1011. OTHER TRANSACTIONS AUTHORITY.

Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:

''(g)(1) In addition to other authorities granted to the Secretary under any other provision of law, the Secretary may enter into other transactions on such terms as the Secretary may consider appropriate in furtherance of research, development, or demonstration functions vested in the Secretary.

''(2) The other transactions shall not be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).

''(3)(A) The Secretary shall ensure that—

''(i) to the maximum extent the Secretary determines practicable, no transaction entered into under paragraph (1) provides for research, development, or demonstration that duplicates research, development, or demonstration being conducted under existing projects carried out by the Department;

''(ii) to the extent the Secretary determines practicable, the funds provided by the Federal Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction; and

''(iii) to the extent the Secretary determines practicable, competitive, merit-based selection procedures shall be used when entering into transactions under paragraph (1).

''(B) A transaction authorized by paragraph (1) may be used for a research, development, or demonstration project only if the Secretary determines the use of a standard contract, grant, or cooperative agreement for the project is not feasible or appropriate.

''(4)(A) The Secretary shall protect from disclosure (including disclosure under section 552 of title 5, United States Code) for up to 5 years after the date the information is received by the Secretary—

''(i) a proposal, proposal abstract, and supporting documents submitted to the Department in a competitive or noncompetitive process having the potential for resulting in an award to the party submitting the information entering into a transaction under paragraph (1); and

''(ii) a business plan and technical information relating to a transaction authorized by paragraph (1) submitted to the Department as confidential business information.

''(B) The Secretary may protect from disclosure, for up to 5 years after the information was developed, any information developed pursuant to a transaction under paragraph (1) which developed information is of a character that it would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.

''(5)(A) Not later than 90 days after the date of enactment of this subsection, the Secretary shall prescribe guidelines for using other transactions authorized by paragraph (1).

''(B) The guidelines shall be published in the Federal Register for public comment under rulemaking procedures of the Department.

''(6) The authority of the Secretary under this subsection may be delegated only to an officer of the Department who is appointed by the President by and with the advice and consent of the Senate and may not be delegated to any other person.''.

SEC. 1012. PRIZES FOR ACHIEVEMENT IN GRAND CHALLENGES OF SCIENCE AND TECHNOLOGY.

(a) AUTHORITY.—The Secretary may carry out a program to award cash prizes in recognition of breakthrough achievements in research, development, demonstration, and commercial application that have the potential for application to the performance of the mission of the Department.

(b) COMPETITION REQUIREMENTS.—The program under subsection (a) may include prizes for the achievement of goals articulated by the Secretary in a specific area through a widely advertised solicitation of submission of results for research, development, demonstration, or commercial application projects.

(c) RELATIONSHIP TO OTHER AUTHORITY.—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority of the Secretary to acquire, support, or stimulate research, development, demonstration, or commercial application projects.

SEC. 1013. TECHNICAL CORRECTIONS.

(a) COAL RESEARCH AND DEVELOPMENT.—

(1) IN GENERAL.—Public Law 86–599 (30 U.S.C. 661 et seq.) is amended—

(A) by striking the first section (30 U.S.C. 661) and inserting the following:

''SECTION 1. (a) This Act may be cited as the 'Coal Research and Development Act of 1960'.

''(b) In this Act:

''(1) The term 'research' means scientific, technical, and economic research and the practical application of that research.

''(2) The term 'Secretary' means the Secretary of Energy.'';

(B) in section 2 (30 U.S.C. 662), by striking ''shall establish within'' and all that follows through ''such Office'';

(C) by striking sections 3, 4, and 7 (30 U.S.C. 663, 664, 667); and

(D) by redesignating sections 5, 6, and 8 (30 U.S.C. 665, 666, 668) as sections 3, 4, and 5, respectively.

(2) PATENTS.—Section 210(a)(8) of title 35, United States Code, is amended by striking ''Coal Research Development Act of 1960'' and inserting ''Coal Research and Development Act of 1960''.

(b) NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT.—

(1) SHORT TITLE; DEFINITIONS.—Section 1 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5902) is amended to read as follows:

''SHORT TITLE AND DEFINITIONS

''SECTION 1. (a) This Act may be cited as the 'Federal Nonnuclear Energy Research and Development Act of 1974''.

''(b) In this Act:

''(1) The term 'Department' means the Department of Energy.

''(2) The term 'Secretary' means the Secretary of Energy.''.

(2) STATEMENT OF POLICY.—Section 3(b) of the Federal Nonnuclear Energy Research and

Development Act of 1974 (42 U.S.C. 5902(b)) is amended—

(A) in paragraph (1), by striking ''Energy Research and Development Administration'' and inserting ''Department'';

(B) in paragraph (2), by striking ''Administrator of the Energy Research and Development Administration (hereinafter in this Act referred to as the 'Administrator')'' and inserting ''Secretary''; and

(C) in paragraph (3)—

(i) by striking ''Administrator'' and inserting ''Secretary''; and

(ii) by inserting ''Demonstration'' after ''Cooling''.

(3) DUTIES AND AUTHORITIES.—Section 4 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5903) is amended—

(A) by striking the section heading and inserting the following:

''DUTIES AND AUTHORITIES OF THE SECRETARY'';

and

(B) in the matter preceding subsection (a), by striking ''Administrator'' and inserting ''Secretary''.

(4) COMPREHENSIVE PLANNING AND PROGRAMMING.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(A) by striking ''Administrator'' each place it appears and inserting ''Secretary''; and

(B) in subsection (b)(3)—

(i) in subparagraph (I), by inserting ''Demonstration'' after ''Cooling''; and

(ii) in subparagraph (L), by inserting ''Energy'' after ''Solar''.

(5) FORMS OF FEDERAL ASSISTANCE.—Section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) is amended—

(A) by striking ''Administrator'' each place it appears and inserting ''Secretary''; and

(B) in subsection (a)(4), by striking ''of the section''.

(6) DEMONSTRATIONS.—Section 8 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5907) is amended—

(A) in subsections (a) through (c), by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(B) in subsection (d)—

(i) in the first sentence of paragraph (1), by inserting ''of the Energy Research and Development Administration'' after ''Administrator''; and

(ii) in paragraph (3), by striking ''Administrator'' and inserting ''Secretary''; and

(C) in subsection (f)—

(i) by striking ''Administrator'' each place it appears and inserting ''Secretary''; and

(ii) in the proviso of the first sentence, by striking ''Administrator's'' and inserting ''Secretary's''.

(7) PATENT POLICY.—Section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908) is amended—

(A) by striking ''Administration'' each place it appears and inserting ''Department'';

(B) by striking ''Administrator'' each place it appears and inserting ''Secretary''; and

(C) in subsection (c)(3), by striking ''Administration's'' and inserting ''Department's''.

(8) ACQUISITION OF ESSENTIAL MATERIALS.—Section 12 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5911) is amended by striking subsection (b) and inserting the following:

''(b) A rule or order under subsection (a) shall be considered to be a major rule subject to chapter 8 of title 5, United States Code.''.

(9) WATER RESOURCE EVALUATION.—Section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912) is amended by striking ''Administrator'' each place it appears and inserting ''Secretary''.

(10) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915) is amended—

(A) by striking the section heading and inserting the following:

''AUTHORIZATION OF APPROPRIATIONS'';

(B) by striking ''(a) There may be appropriated to the Administrator'' and inserting ''There may be appropriated to the Secretary''; and

(C) by striking subsections (b) and (c).

(11) CENTRAL SOURCE OF NONNUCLEAR ENERGY INFORMATION.—Section 17 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5916) is amended—

(A) by striking ''Administrator'' each place it appears and inserting ''Secretary'';

(B) in the first sentence, by striking ''Administrator's'';

(C) in the second sentence, by striking ''he'' and inserting ''the Secretary'';

(D) in the third sentence—

(i) in paragraph (2) of the first proviso, by striking ''section 1905 or title 18'' and inserting ''section 1905 of title 18''; and

(ii) in subparagraph (B) of the second proviso—

(I) by striking ''the Federal Energy Administration,'';

(II) by striking ''the Federal Power Commission,'' and inserting ''the Federal Energy Regulatory Commission''; and

(III) by striking ''General Accounting Office'' and inserting ''Government Accountability Office''; and

(E) in the last sentence, by inserting ''or ranking minority member'' after ''chairman''.

(12) ENERGY INFORMATION, LOAN GUARANTEES, AND FINANCIAL SUPPORT.—Sections 18 through 20 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5917 through 5920) are repealed.

(c) STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—Section 20 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3712) is amended by striking ''and the National Science Foundation'' and inserting '', the Secretary of Energy, and the Director of the National Science Foundation''.

TITLE XI—PERSONNEL AND TRAINING

SEC. 1101. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.

(a) DEFINITIONS.—In this section:

(1) ENERGY TECHNOLOGY INDUSTRY.—The term ''energy technology industry'' includes—

(A) a renewable energy industry;

(B) a company that develops or commercializes a device to increase energy efficiency;

(C) the oil and gas industry;

(D) the nuclear power industry;

(E) the coal industry;

(F) the electric utility industry; and

(G) any other industrial sector, as the Secretary determines to be appropriate.

(2) SKILLED TECHNICAL PERSONNEL.—The term ''skilled technical personnel'' means—

(A) journey- and apprentice-level workers who are enrolled in, or have completed, a federally-recognized or State-recognized apprenticeship program; and

(B) other skilled workers in energy technology industries, as determined by the Secretary.

(b) WORKFORCE TRENDS.—

(1) MONITORING.—The Secretary, in consultation with, and using data collected by, the Secretary of Labor, shall monitor trends in the workforce of—

(A) skilled technical personnel that support energy technology industries; and

(B) electric power and transmission engineers.

(2) REPORT.—As soon as practicable after the date on which the Secretary identifies or predicts a significant national shortage of skilled technical personnel in 1 or more energy technology industries, the Secretary shall submit to Congress a report describing the shortage.

(c) TRAINEESHIP GRANTS FOR SKILLED TECHNICAL PERSONNEL.—The Secretary, in consultation with the Secretary of Labor, may establish programs in the appropriate offices of the Department under which the Secretary provides grants to enhance training (including distance learning) for any workforce category for which a shortage is identified or predicted under subsection (b)(2).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2008.

SEC. 1102. ENERGY RESEARCH FELLOWSHIPS.

(a) POSTDOCTORAL FELLOWSHIP PROGRAM.—The Secretary shall establish a program under which the Secretary provides fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice.

(b) SENIOR RESEARCH FELLOWSHIPS.—

(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary provides fellowships to allow outstanding senior researchers and their research groups in energy research and development to explore research and development topics of their choosing for a period of not less than 3 years to be determined by the Secretary.

(2) CONSIDERATION.—In providing a fellowship under the program described in paragraph (1), the Secretary shall consider—

(A) the past scientific or technical accomplishment of a senior researcher; and

(B) the potential for continued accomplishment by the researcher during the period of the fellowship.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $40,000,000 for each of fiscal years 2006 through 2008.

SEC. 1103. EDUCATIONAL PROGRAMS IN SCIENCE AND MATHEMATICS.

(a) AUTHORIZED EDUCATION ACTIVITIES.—Section 3165 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381b) is amended by adding at the end:

''(14) Support competitive events for students, under supervision of teachers, designed to encourage student interest and knowledge in science and mathematics.

''(15) Support competitively-awarded science resource centers at National Laboratories to promote professional development of mathematics teachers and science teachers who teach in grades from kindergarten through grade 12.

''(16) Support summer internships at National Laboratories for mathematics teachers and science teachers who teach in grades from kindergarten through grade 12.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3168 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381e) is amended by inserting before the period at the end the following: ''and $40,000,000 for each of fiscal years 2006 through 2008.''.

SEC. 1104. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary and in

conjunction with the electric industry and recognized employee representatives, shall develop model personnel training guidelines to support the reliability and safety of the electric system.

(b) REQUIREMENTS.—The training guidelines under subsection (a) shall, at a minimum—

(1) include training requirements for workers engaged in the construction, operation, inspection, or maintenance of electric generation, transmission, or distribution systems, including requirements relating to—

(A) competency;

(B) certification; and

(C) assessment, including—

(i) initial and continuous evaluation of workers;

(ii) recertification procedures; and

(iii) methods for examining or testing the qualification of an individual who performs a covered task; and

(2) consolidate training guidelines in existence on the date on which the guidelines under subsection (a) are developed relating to the construction, operation, maintenance, and inspection of electric generation, transmission, and distribution facilities, such as guidelines established by the National Electric Safety Code and other industry consensus standards.

SEC. 1105. NATIONAL CENTER FOR ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.

The Secretary shall support the ongoing activities of the National Center for Energy Management and Building Technologies to carry out research, education, and training activities to facilitate the improvement of energy efficiency, indoor environmental quality, and security of industrial, commercial, residential, and public buildings.

SEC. 1106. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.

(a) SCIENCE EDUCATION PROGRAMS.—Section 3164 of the Department of Energy Science Education Enhancement Act (42 U.S.C. 7381a) is amended by adding at the end the following:

''(c) PROGRAMS FOR STUDENTS FROM UNDER-REPRESENTED GROUPS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage students from under-represented groups to pursue scientific and technical careers.''.

(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—

(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and

(2) by inserting after section 3166 the following:

''SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.

''(a) DEFINITIONS.—In this section:

''(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given 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 2 of the Energy Policy Act of 2005.

''(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 903 of the Energy Policy Act of 2005.

''(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College Assistance Act of 1978 (25 U.S.C. 1801(a)).

''(b) EDUCATION PARTNERSHIP.—The Secretary shall require the director of each National Laboratory, and may require the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in any activity that increases the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.

''(c) ACTIVITIES.—An activity described in subsection (b) includes—

''(1) collaborative research;

''(2) equipment transfer;

''(3) training activities carried out at a National Laboratory or science facility; and

''(4) mentoring activities carried out at a National Laboratory or science facility.

''(d) REPORT.—Not later than 2 years after the date of enactment of this subsection, the Secretary shall submit to Congress a report describing the activities carried out under this section.''.

SEC. 1107. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.

(a) ESTABLISHMENT.—The Secretary shall support the establishment of a National Power Plant Operations Technology and Education Center (referred to in this section as the ''Center''), to address the need for training and educating certified operators for electric power generation plants.

(b) LOCATION OF CENTER.—The Secretary shall support the establishment of the Center at an institution of higher education that has—

(1) expertise in power plant technology and operation; and

(2) the ability to provide onsite and Internet-based training.

(c) TRAINING AND CONTINUING EDUCATION.—

(1) IN GENERAL.—The Center shall provide training and continuing education relating to electric power generation plant technologies and operations.

(2) LOCATION.—The Center shall carry out training and education activities under paragraph (1)—

(A) at the Center; and

(B) through Internet-based information technologies that allow for learning at a remote site.

TITLE XII—ELECTRICITY

SEC. 1201. SHORT TITLE.

This title may be cited as the ''Electricity Modernization Act of 2005''.

Subtitle A—Reliability Standards

SEC. 1211. ELECTRIC RELIABILITY STANDARDS.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by adding at the end the following:

''SEC. 215. ELECTRIC RELIABILITY.

''(a) DEFINITIONS.—In this section:

''(1)(A) The term 'bulk-power system' means—

''(i) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion of such a network); and

''(ii) electric energy from generation facilities needed to maintain transmission system reliability.

''(B) The term 'bulk-power system' does not include facilities used in the local distribution of electric energy.

''(2) The terms 'Electric Reliability Organization' and 'ERO' mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to review by the Commission.

''(3)(A) The term 'reliability standard' means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system.

''(B) The term 'reliability standard' includes requirements for the operation of existing bulk-power system components and the design of planned additions or modifications to those components to the extent necessary to provide for reliable operation of the bulk-power system, except that the term does not include any requirement to enlarge those components or to construct new transmission capacity or generation capacity.

''(4) The term 'reliable operation' means operating the components of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of the system will not occur as a result of a sudden disturbance or unanticipated failure of system components.

''(5) The term 'interconnection' means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of 1 or more of the components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the portion of the system within their control.

''(6) The term 'regional entity' means an entity having enforcement authority pursuant to subsection (e)(4).

''(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system (including the entities described in section 201(f)), for purposes of approving reliability standards established under this section and enforcing compliance with this section.

''(2) All users, owners, and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

''(3) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

''(c) CERTIFICATION.—(1) Following the issuance of a Commission rule under subsection (b)(3), any person may submit an application to the Commission for certification as the Electric Reliability Organization.

''(2) The Commission may certify 1 such ERO if the Commission determines that the ERO—

''(A) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

''(B) has established rules that—

''(i) ensure the independence of the ERO from the users and owners and operators of the bulk-power system, while ensuring fair stakeholder representation in the selection of the directors of the ERO and balanced decisionmaking in any ERO committee or subordinate organizational structure;

''(ii) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

''(iii) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

''(iv) provide for reasonable notice and opportunity for public comment, due process,

openness, and balance of interests in developing reliability standards and otherwise exercising the duties of the ERO; and

''(v) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

''(d) RELIABILITY STANDARDS.—(1) The ERO shall file each reliability standard or modification to a reliability standard that the ERO proposes to be made effective under this section with the Commission.

''(2)(A) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if the Commission determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(B) The Commission—

''(i) shall give due weight to the technical expertise of the ERO with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an interconnection-wide basis with respect to a reliability standard to be applicable within that interconnection; but

''(ii) shall not defer with respect to the effect of a standard on competition.

''(C) A proposed standard or modification shall take effect on approval by the Commission.

''(3) The ERO shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, not unduly discriminatory or preferential, and in the public interest.

''(4) The Commission shall remand to the ERO for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

''(5) The Commission, on a motion of the Commission or on complaint, may order the ERO to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

''(6)(A) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization.

''(B) The transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted approved, or ordered by the Commission until—

''(i) the Commission finds a conflict exists between a reliability standard and any such provision;

''(ii) the Commission orders a change to the provision pursuant to section 206; and

''(iii) the ordered change becomes effective under this part.

''(C) If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, the Commission shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5).

''(e) ENFORCEMENT.—(1) Subject to paragraph (2), the ERO may impose a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

''(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

''(B) files notice and the record of the proceeding with the Commission.

''(2)(A) A penalty imposed under paragraph (1) may take effect not earlier than the day that is 31 days after the date on which the ERO files with the Commission notice of the penalty and the record of proceedings.

''(B) The penalty shall be subject to review by the Commission on—

''(i) a motion by the Commission; or

''(ii) application by the user, owner or operator that is the subject of the penalty filed not later than 30 days after the date on which the notice is filed with the Commission.

''(C) Application to the Commission for review, or the initiation of review by the Commission on a motion of the Commission, shall not operate as a stay of the penalty unless the Commission orders otherwise on a motion of the Commission or on application by the user, owner or operator that is the subject of the penalty.

''(D) In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order—

''(i) affirm, set aside, reinstate, or modify the penalty; and

''(ii) if appropriate, remand to the ERO for further proceedings.

''(E) The Commission shall implement expedited procedures for the hearings described in subparagraph (D).

''(3) On a motion of the Commission or on complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a reliability standard.

''(4)(A) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

''(i) the regional entity is governed by—

''(I) an independent board;

''(II) a balanced stakeholder board; or

''(III) a combination independent and balanced stakeholder board;

''(ii) the regional entity otherwise meets the requirements of paragraphs (1) and (2) of subsection (c); and

''(iii) the agreement promotes effective and efficient administration of bulk-power system reliability.

''(B) The Commission may modify a delegation under this paragraph.

''(C) The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved.

''(D) The regulation issued under this paragraph may provide that the Commission may assign the authority of the ERO to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with this paragraph.

''(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

''(6) Any penalty imposed under this section shall—

''(A) bear a reasonable relation to the seriousness of the violation; and

''(B) take into consideration the efforts of the user, owner, or operator to remedy the violation in a timely manner.

''(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—(1) The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of the basis and purpose of the rule and proposed rule change.

''(2) The Commission, upon a motion of the Commission or upon complaint, may propose a change to the rules of the ERO.

''(3) A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, and not unduly discriminatory or preferential, is in the public interest, and meets the requirements of subsection (c).

''(g) RELIABILITY REPORTS.—The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.

''(h) COORDINATION WITH CANADA AND MEXICO.—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

''(i) SAVINGS PROVISIONS.—(1) The ERO may develop and enforce compliance with reliability standards for only the bulk-power system.

''(2) Nothing in this section authorizes the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

''(3) Nothing in this section preempts any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as the action is not inconsistent with any reliability standard.

''(4) Not later than 90 days after the date of application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

''(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the issuance by the Commission of a final order.

''(j) REGIONAL ADVISORY BODIES.—(1) The Commission shall establish a regional advisory body on the petition of at least ⅔ of the States within a region that have more than ½ of the electric load of the States served within the region.

''(2) A regional advisory body—

''(A) shall be composed of 1 member from each participating State in the region, appointed by the Governor of the State; and

''(B) may include representatives of agencies, States, and provinces outside the United States.

''(3) A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding—

''(A) the governance of an existing or proposed regional entity within the same region;

''(B) whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest;

''(C) whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest; and

''(D) any other responsibilities requested by the Commission.

''(4) The Commission may give deference to the advice of a regional advisory body if that body is organized on an interconnection-wide basis.

''(k) ALASKA AND HAWAII.—This section does not apply to Alaska or Hawaii.''.

(b) STATUS OF ERO.—The Electric Reliability Organization certified by the Commission under section 215(c) of the Federal Power Act (as added by subsection (a)) and any regional entity delegated enforcement authority pursuant to section 215(e)(4) of that Act (as so added) are not departments, agencies, or instrumentalities of the Federal Government.

Subtitle B—Transmission Infrastructure Modernization

SEC. 1221. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

(a) IN GENERAL.—Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1211(a)) is amended by adding at the end the following:

''SEC. 216. SITING OF INTERSTATE ELECTRIC TRANSMISSION FACILITIES.

''(a) DESIGNATION OF NATIONAL INTEREST ELECTRIC TRANSMISSION CORRIDORS.—(1) Not later than 1 year after the date of enactment of this section and every 3 years thereafter, the Secretary of Energy (referred to in this section as the 'Secretary'), in consultation with affected States, shall conduct a study of electric transmission congestion.

''(2) After considering alternatives and recommendations from interested parties (including an opportunity for comment from affected States), the Secretary shall issue a report, based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest electric transmission corridor.

''(3) The Secretary shall conduct the study and issue the report in consultation with any appropriate regional entity referred to in section 215.

''(4) In determining whether to designate a national interest electric transmission corridor under paragraph (2), the Secretary may consider whether—

''(A) the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;

''(B)(i) economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy; and

''(ii) a diversification of supply is warranted;

''(C) the energy independence of the United States would be served by the designation;

''(D) the designation would be in the interest of national energy policy; and

''(E) the designation would enhance national defense and homeland security.

''(b) CONSTRUCTION PERMIT.—Except as provided in subsection (i), the Commission may, after notice and an opportunity for hearing, issue 1 or more permits for the construction or modification of electric transmission facilities in a national interest electric transmission corridor designated by the Secretary under subsection (a) if the Commission finds that—

''(1)(A) a State in which the transmission facilities are to be constructed or modified does not have authority to—

''(i) approve the siting of the facilities; or

''(ii) consider the interstate benefits expected to be achieved by the proposed construction or modification of transmission facilities in the State;

''(B) the applicant for a permit is a transmitting utility under this Act but does not qualify to apply for a permit or siting approval for the proposed project in a State because the applicant does not serve end-use customers in the State; or

''(C) a State commission or other entity that has authority to approve the siting of the facilities has—

''(i) withheld approval for more than 1 year after the filing of an application seeking approval pursuant to applicable law or 1 year after the designation of the relevant national interest electric transmission corridor, whichever is later; or

''(ii) conditioned its approval in such a manner that the proposed construction or modification will not significantly reduce transmission congestion in interstate commerce or is not economically feasible;

''(2) the facilities to be authorized by the permit will be used for the transmission of electric energy in interstate commerce;

''(3) the proposed construction or modification is consistent with the public interest;

''(4) the proposed construction or modification will significantly reduce transmission congestion in interstate commerce and protects or benefits consumers;

''(5) the proposed construction or modification is consistent with sound national energy policy and will enhance energy independence; and

''(6) the proposed modification will maximize, to the extent reasonable and economical, the transmission capabilities of existing towers or structures so as to minimize the environmental and visual impact of the proposed modification.

''(c) PERMIT APPLICATIONS.—(1) Permit applications under subsection (b) shall be made in writing to the Commission.

''(2) The Commission shall issue rules specifying—

''(A) the form of the application;

''(B) the information to be contained in the application; and

''(C) the manner of service of notice of the permit application on interested persons.

''(d) COMMENTS.—In any proceeding before the Commission under subsection (b), the Commission shall afford each State in which a transmission facility covered by the permit is or will be located, each affected Federal agency and Indian tribe, private property owners, and other interested persons, a reasonable opportunity to present their views and recommendations with respect to the need for and impact of a facility covered by the permit.

''(e) RIGHTS-OF-WAY.—(1) In the case of a permit under subsection (b) for electric transmission facilities to be located on property other than property owned by the United States or a State, if the permit holder cannot acquire by contract, or is unable to agree with the owner of the property to the compensation to be paid for, the necessary right-of-way to construct or modify the transmission facilities, the permit holder may acquire the right-of-way by the exercise of the right of eminent domain in the district court of the United States for the district in which the property concerned is located, or in the appropriate court of the State in which the property is located.

''(2) Any right-of-way acquired under paragraph (1) shall be used exclusively for the construction or modification of electric transmission facilities within a reasonable period of time after the acquisition.

''(3) The practice and procedure in any action or proceeding under this subsection in the district court of the United States shall conform as nearly as practicable to the practice and procedure in a similar action or proceeding in the courts of the State in which the property is located.

''(f) COMPENSATION.—(1) Any right-of-way acquired pursuant to subsection (e) shall be considered a taking of private property for which just compensation is due.

''(2) Just compensation shall be an amount equal to the fair market value (including applicable severance damages) of the property taken on the date of the exercise of eminent domain authority.

''(g) STATE LAW.—Nothing in this section precludes any person from constructing or modifying any transmission facility in accordance with State law.

''(h) COORDINATION OF FEDERAL AUTHORIZATIONS FOR TRANSMISSION FACILITIES.—(1) In this subsection:

''(A) The term 'Federal authorization' means any authorization required under Federal law in order to site a transmission facility.

''(B) The term 'Federal authorization' includes such permits, special use authorizations, certifications, opinions, or other approvals as may be required under Federal law in order to site a transmission facility.

''(2) The Department of Energy shall act as the lead agency for purposes of coordinating all applicable Federal authorizations and related environmental reviews of the facility.

''(3) To the maximum extent practicable under applicable Federal law, the Secretary shall coordinate the Federal authorization and review process under this subsection with any Indian tribes, multistate entities, and State agencies that are responsible for conducting any separate permitting and environmental reviews of the facility, to ensure timely and efficient review and permit decisions.

''(4)(A) As head of the lead agency, the Secretary, in consultation with agencies responsible for Federal authorizations and, as appropriate, with Indian tribes, multistate entities, and State agencies that are willing to coordinate their own separate permitting and environmental reviews with the Federal authorization and environmental reviews, shall establish prompt and binding intermediate milestones and ultimate deadlines for the review of, and Federal authorization decisions relating to, the proposed facility.

''(B) The Secretary shall ensure that, once an application has been submitted with such data as the Secretary considers necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed—

''(i) within 1 year; or

''(ii) if a requirement of another provision of Federal law does not permit compliance with clause (i), as soon thereafter as is practicable.

''(C) The Secretary shall provide an expeditious pre-application mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

''(i) the likelihood of approval for a potential facility; and

''(ii) key issues of concern to the agencies and public.

''(5)(A) As lead agency head, the Secretary, in consultation with the affected agencies, shall prepare a single environmental review document, which shall be used as the basis for all decisions on the proposed project under Federal law.

''(B) The Secretary and the heads of other agencies shall streamline the review and permitting of transmission within corridors designated under section 503 of the Federal

Land Policy and Management Act (43 U.S.C. 1763) by fully taking into account prior analyses and decisions relating to the corridors.

''(C) The document shall include consideration by the relevant agencies of any applicable criteria or other matters as required under applicable law.

''(6)(A) If any agency has denied a Federal authorization required for a transmission facility, or has failed to act by the deadline established by the Secretary pursuant to this section for deciding whether to issue the authorization, the applicant or any State in which the facility would be located may file an appeal with the President, who shall, in consultation with the affected agency, review the denial or failure to take action on the pending application.

''(B) Based on the overall record and in consultation with the affected agency, the President may—

''(i) issue the necessary authorization with any appropriate conditions; or

''(ii) deny the application.

''(C) The President shall issue a decision not later than 90 days after the date of the filing of the appeal.

''(D) In making a decision under this paragraph, the President shall comply with applicable requirements of Federal law, including any requirements of—

''(i) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

''(ii) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

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

''(iv) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

''(v) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

''(7)(A) Not later than 18 months after the date of enactment of this section, the Secretary shall issue any regulations necessary to implement this subsection.

''(B)(i) Not later than 1 year after the date of enactment of this section, the Secretary and the heads of all Federal agencies with authority to issue Federal authorizations shall enter into a memorandum of understanding to ensure the timely and coordinated review and permitting of electricity transmission facilities.

''(ii) Interested Indian tribes, multistate entities, and State agencies may enter the memorandum of understanding.

''(C) The head of each Federal agency with authority to issue a Federal authorization shall designate a senior official responsible for, and dedicate sufficient other staff and resources to ensure, full implementation of the regulations and memorandum required under this paragraph.

''(8)(A) Each Federal land use authorization for an electricity transmission facility shall be issued—

''(i) for a duration, as determined by the Secretary, commensurate with the anticipated use of the facility; and

''(ii) with appropriate authority to manage the right-of-way for reliability and environmental protection.

''(B) On the expiration of the authorization (including an authorization issued before the date of enactment of this section), the authorization shall be reviewed for renewal taking fully into account reliance on such electricity infrastructure, recognizing the importance of the authorization for public health, safety, and economic welfare and as a legitimate use of Federal land.

''(9) In exercising the responsibilities under this section, the Secretary shall consult regularly with—

''(A) the Federal Energy Regulatory Commission;

''(B) electric reliability organizations (including related regional entities) approved by the Commission; and

''(C) Transmission Organizations approved by the Commission.

''(i) INTERSTATE COMPACTS.—(1) The consent of Congress is given for 3 or more contiguous States to enter into an interstate compact, subject to approval by Congress, establishing regional transmission siting agencies to—

''(A) facilitate siting of future electric energy transmission facilities within those States; and

''(B) carry out the electric energy transmission siting responsibilities of those States.

''(2) The Secretary may provide technical assistance to regional transmission siting agencies established under this subsection.

''(3) The regional transmission siting agencies shall have the authority to review, certify, and permit siting of transmission facilities, including facilities in national interest electric transmission corridors (other than facilities on property owned by the United States).

''(4) The Commission shall have no authority to issue a permit for the construction or modification of an electric transmission facility within a State that is a party to a compact, unless the members of the compact are in disagreement and the Secretary makes, after notice and an opportunity for a hearing, the finding described in subsection (b)(1)(C).

''(j) RELATIONSHIP TO OTHER LAWS.—(1) Except as specifically provided, nothing in this section affects any requirement of an environmental law of the United States, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

''(2) Subsection (h)(6) shall not apply to any unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Trails System, the National Wilderness Preservation System, or a National Monument.''.

(b) REPORTS TO CONGRESS ON CORRIDORS AND RIGHTS OF WAY ON FEDERAL LANDS.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior, the Secretary, the Secretary of Agriculture, and the Chairman of the Council on Environmental Quality shall submit to Congress a joint report identifying—

(1)(A) all existing designated transmission and distribution corridors on Federal land and the status of work related to proposed transmission and distribution corridor designations under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.);

(B) the schedule for completing the work;

(C) any impediments to completing the work; and

(D) steps that Congress could take to expedite the process;

(2)(A) the number of pending applications to locate transmission facilities on Federal land;

(B) key information relating to each such facility;

(C) how long each application has been pending;

(D) the schedule for issuing a timely decision as to each facility; and

(E) progress in incorporating existing and new such rights-of-way into relevant land use and resource management plans or the equivalent of those plans; and

(3)(A) the number of existing transmission and distribution rights-of-way on Federal land that will come up for renewal within the following 5-, 10-, and 15-year periods; and

(B) a description of how the Secretaries plan to manage the renewals.

SEC. 1222. THIRD-PARTY FINANCE.

(a) EXISTING FACILITIES.—The Secretary, acting through the Administrator of the Western Area Power Administration (referred to in this section as ''WAPA'') or the Administrator of the Southwestern Power Administration (referred to in this section as ''SWPA''), or both, may carry out a project to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, an electric power transmission facility and related facilities needed to upgrade existing transmission facilities owned by the SWPA or WAPA if the Secretary, in consultation with the applicable Administrator, determines that the proposed project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)), if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid; and

(3) would be operated in conformance with prudent utility practice.

(b) NEW FACILITIES.—The Secretary, acting through the WAPA or SWPA, or both, may carry out a project to design, develop, construct, operate, maintain, or own, or participate with other entities in designing, developing, constructing, operating, maintaining, or owning, a new electric power transmission facility and related facilities located within any State in which the WAPA or SWPA operates if the Secretary, in consultation with the applicable Administrator, determines that the proposed project—

(1)(A) is located in a national interest electric transmission corridor designated under section 216(a) of the Federal Power Act and will reduce congestion of electric transmission in interstate commerce; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity;

(2) is consistent with—

(A) transmission needs identified, in a transmission expansion plan or otherwise, by the appropriate Transmission Organization, if any, or approved regional reliability organization; and

(B) efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practice;

(4) will be operated by, or in conformance with the rules of, the appropriate—

(A) Transmission Organization, if any; or

(B) if such an organization does not exist, regional reliability organization; and

(5) will not duplicate the functions of existing transmission facilities or proposed facilities that are the subject of ongoing or approved siting and related permitting proceedings.

(c) OTHER FUNDS.—

(1) IN GENERAL.—In carrying out a project under subsection (a) or (b), the Secretary may accept and use funds contributed by another entity for the purpose of carrying out the project.

(2) AVAILABILITY.—The contributed funds shall be available for expenditure for the purpose of carrying out the project—

(A) without fiscal year limitation; and

(B) as if the funds had been appropriated specifically for the project.

(3) ALLOCATION OF COSTS.—In carrying out a project under subsection (a) or (b), any

costs of the project not paid for by contributions from another entity shall be—

(A) collected through rates charged to customers using the new transmission capability provided by the project; and

(B) allocated equitably among these project beneficiaries using the new transmission capability.

(d) RELATIONSHIP TO OTHER LAWS.—Nothing in this section affects any requirement of—

(1) any Federal environmental law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(2) any Federal or State law relating to the siting of energy facilities; or

(3) any authorizing law in effect on the date of enactment of this Act.

(e) SAVINGS CLAUSE.—Nothing in this section constrains or restricts an Administrator in the use of other authority delegated to the Administrator of the WAPA or SWPA.

(f) SECRETARIAL DETERMINATIONS.—Any determination made pursuant to subsection (a) or (b) shall be based on findings by the Secretary using the best available data.

(g) MAXIMUM FUNDING AMOUNT.—The Secretary shall not accept and use more than $100,000,000 under subsection (c)(1) for the period of fiscal years 2006 through 2013.

SEC. 1223. ADVANCED TRANSMISSION TECHNOLOGIES.

(a) DEFINITION OF ADVANCED TRANSMISSION TECHNOLOGY.—In this section, the term ''advanced transmission technology'' means a technology that increases the capacity, efficiency, or reliability of an existing or new transmission facility, including—

(1) high-temperature lines (including superconducting cables);

(2) underground cables;

(3) advanced conductor technology (including advanced composite conductors, high-temperature low-sag conductors, and fiber optic temperature sensing conductors);

(4) high-capacity ceramic electric wire, connectors, and insulators;

(5) optimized transmission line configurations (including multiple phased transmission lines);

(6) modular equipment;

(7) wireless power transmission;

(8) ultra-high voltage lines;

(9) high-voltage DC technology;

(10) flexible AC transmission systems;

(11) energy storage devices (including pumped hydro, compressed air, superconducting magnetic energy storage, flywheels, and batteries);

(12) controllable load;

(13) distributed generation (including PV, fuel cells, and microturbines);

(14) enhanced power device monitoring;

(15) direct system state sensors;

(16) fiber optic technologies;

(17) power electronics and related software (including real time monitoring and analytical software);

(18) mobile transformers and mobile substations; and

(19) any other technologies the Commission considers appropriate.

(b) AUTHORITY.—In carrying out the Federal Power Act (16 U.S.C. 791a et seq.) and the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), the Commission shall encourage, as appropriate, the deployment of advanced transmission technologies.

SEC. 1224. ADVANCED POWER SYSTEM TECHNOLOGY INCENTIVE PROGRAM.

(a) DEFINITIONS.—In this section:

(1) QUALIFYING ADVANCED POWER SYSTEM TECHNOLOGY FACILITY.—The term ''qualifying advanced power system technology facility'' means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) QUALIFYING SECURITY AND ASSURED POWER FACILITY.—The term ''qualifying security and assured power facility'' means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(b) PROGRAM.—The Secretary may establish an advanced power system technology incentive program to—

(1) support the deployment of certain advanced power system technologies; and

(2) improve and protect certain critical governmental, industrial, and commercial processes.

(c) INCENTIVE PAYMENTS.—

(1) IN GENERAL.—Funds provided under this section shall be used by the Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance.

(2) APPLICATION.—Payments under this section may only be made on receipt by the Secretary of an incentive payment application establishing an applicant as—

(A) a qualifying advanced power system technology facility; or

(B) a qualifying security and assured power facility.

(3) PAYMENT RATES.—Subject to availability of funds—

(A) a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at the facility; and

(B) an additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at the facility.

(4) PAYMENT QUANTITY.—Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2006 through 2012.

Subtitle C—Transmission Operation Improvements

SEC. 1231. OPEN NONDISCRIMINATORY ACCESS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended by inserting after section 211 (16 U.S.C. 824j) the following:

''SEC. 211A. OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES.

''(a) DEFINITION OF UNREGULATED TRANSMITTING UTILITY.—In this section, the term 'unregulated transmitting utility' means an entity that—

''(1) owns or operates facilities used for the transmission of electric energy in interstate commerce; and

''(2) is an entity described in section 201(f).

''(b) TRANSMISSION OPERATION IMPROVEMENTS.—Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—

''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself; and

''(2) on terms and conditions (not relating to rates) that are comparable to those under which the unregulated transmitting utility provides transmission services to itself and that are not unduly discriminatory or preferential.

''(c) EXEMPTION.—The Commission shall exempt from any rule or order under this section any unregulated transmitting utility that—

''(1) sells not more than 4,000,000 megawatt hours of electricity per year;

''(2) does not own or operate any transmission facilities that are necessary for operating an interconnected transmission system (or any portion of the system); or

''(3) meets other criteria the Commission determines to be in the public interest.

''(d) LOCAL DISTRIBUTION FACILITIES.—The requirements of subsection (b) shall not apply to facilities used in local distribution.

''(e) EXEMPTION TERMINATION.—If the Commission, after an evidentiary hearing held on a complaint and after giving consideration to reliability standards established under section 215, finds on the basis of a preponderance of the evidence that any exemption granted pursuant to subsection (c) unreasonably impairs the continued reliability of an interconnected transmission system, the Commission shall revoke the exemption granted to the transmitting utility.

''(f) APPLICATION TO UNREGULATED TRANSMITTING UTILITIES.—The rate changing procedures applicable to public utilities under subsections (c) and (d) of section 205 are applicable to unregulated transmitting utilities for purposes of this section.

''(g) REMAND.—In exercising authority under subsection (b)(1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision if necessary to meet the requirements of subsection (b).

''(h) OTHER REQUESTS.—The provision of transmission services under subsection (b) does not preclude a request for transmission services under section 211.

''(i) LIMITATION.—The Commission may not require a State or municipality to take action under this section that would violate a private activity bond rule for purposes of section 141 of the Internal Revenue Code of 1986.

''(j) TRANSFER OF CONTROL OF TRANSMITTING FACILITIES.—Nothing in this section authorizes the Commission to require an unregulated transmitting utility to transfer control or operational control of its transmitting facilities to a Transmission Organization that is designated to provide nondiscriminatory transmission access.''.

SEC. 1232. REGIONAL TRANSMISSION ORGANIZATIONS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1221(a)) is amended by adding at the end the following:

''SEC. 217. PROMOTION OF VOLUNTARY TRANSMISSION ORGANIZATIONS.

''(a) IN GENERAL.—The Commission may encourage and may approve the voluntary formation of RTOs, ISOs, or other similar organizations approved by the Commission for the purposes of—

''(1) promoting fair, open access to electric transmission service;

''(2) facilitating wholesale competition;

''(3) improving efficiencies in transmission grid management;

''(4) promoting grid reliability;

''(5) removing opportunities for unduly discriminatory or preferential transmission practices; and

''(6) providing for the efficient development of transmission infrastructure needed to meet the growing demands of competitive wholesale power markets.

''(b) OPERATIONAL CONTROL.—No order issued under this Act shall be conditioned on or require a transmitting utility to transfer operational control of jurisdictional facilities to a Transmission Organization approved by the Commission.

''(c) ANNUAL AUDITS.—(1) Each Transmission Organization shall report to the

Commission on a scheduled basis, as determined by the Commission, the means by which the Transmission Organization will ensure that the Transmission Organization will operate and perform the functions of the Transmission Organization in a cost effective manner that is also consistent with the obligations of the Transmission Organization under the Commission-approved tariffs and agreements of the Transmission Organization.

''(2) The Commission shall annually audit the compliance of the Transmission Organization with the filed plan and any additional Commission requirements concerning the performance, operations, and cost efficiencies of the Transmission Organization.

''(3) The Commission shall establish appropriate accounting procedures for recording costs to facilitate comparisons among Transmission Organizations and, to the extent practicable, among other transmitting utilities performing similar functions.''.

SEC. 1233. FEDERAL UTILITY PARTICIPATION IN TRANSMISSION ORGANIZATIONS.

(a) DEFINITIONS.—In this section—

(1) APPROPRIATE FEDERAL REGULATORY AUTHORITY.—The term ''appropriate Federal regulatory authority'' means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) FEDERAL POWER MARKETING AGENCY.—The term ''Federal power marketing agency'' has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) FEDERAL UTILITY.—The term ''Federal utility'' means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) TRANSMISSION ORGANIZATION.—The term ''Transmission Organization'' has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(5) TRANSMISSION SYSTEM.—The term ''transmission system'' means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) TRANSFER.—The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) CONTENTS.—The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) COMMISSION.—Neither this section, actions taken pursuant to this section, nor any other transaction of a Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) EXISTING STATUTORY AND OTHER OBLIGATIONS.—

(1) SYSTEM OPERATION REQUIREMENTS.—No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) OTHER OBLIGATIONS.—This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on the date of enactment of this Act, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(3) CONFORMING AMENDMENT.—Section 311 of the Energy and Water Development Appropriations Act, 2001 (16 U.S.C. 824n) is repealed.

SEC. 1234. STANDARD MARKET DESIGN.

The proposed rulemaking of the Commission entitled ''Remedying Undue Discrimination through Open Access Transmission Service and Standard Electricity Market Design'' (Docket No. RM01–12–000) (commonly known as ''SMD NOPR'') is terminated and shall not be reissued.

SEC. 1235. NATIVE LOAD SERVICE OBLIGATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1232) is amended by adding at the end the following:

''SEC. 218. NATIVE LOAD SERVICE OBLIGATION.

''(a) DEFINITIONS.—In this section:

''(1) The term 'distribution utility' means an electric utility that has a service obligation to end-users or to a State utility or electric cooperative that, directly or indirectly, through 1 or more additional State utilities or electric cooperatives, provides electric service to end-users.

''(2) The term 'load-serving entity' means a distribution utility or an electric utility that has a service obligation.

''(3) The term 'service obligation' means a requirement applicable to, or the exercise of authority granted to, an electric utility under Federal, State, or local law or under long-term contracts to provide electric service to end-users or to a distribution utility.

''(4) The term 'State utility' means a State or any political subdivision of a State, or any agency, authority, or instrumentality of any 1 or more States or political subdivisions, or a corporation that is wholly owned, directly or indirectly, by any 1 or more of the States or political subdivisions, competent to carry on the business of developing, transmitting, using, or distributing power.

''(b) MEETING SERVICE OBLIGATIONS.—(1) Paragraph (2) applies to any load-serving entity that, as of the date of enactment of this section—

''(A) owns generation facilities, markets the output of Federal generation facilities, or holds rights under 1 or more wholesale contracts to purchase electric energy, for the purpose of meeting a service obligation; and

''(B) by reason of ownership of transmission facilities, or 1 or more contracts or service agreements for firm transmission service, holds firm transmission rights for delivery of the output of the generation facilities or the purchased energy to meet the service obligation.

''(2) Any load-serving entity described in paragraph (1) is entitled to use the firm transmission rights, or, equivalent tradable or financial transmission rights, in order to deliver the output or purchased energy, or the output of other generating facilities or purchased energy to the extent deliverable using the rights, to the extent required to meet the service obligation of the load-serving entity.

''(3)(A) To the extent that all or a portion of the service obligation covered by the firm transmission rights or equivalent tradable or financial transmission rights is transferred to another load-serving entity, the successor load-serving entity shall be entitled to use the firm transmission rights or equivalent tradable or financial transmission rights associated with the transferred service obligation.

''(B) Subsequent transfers to another load-serving entity, or back to the original load-serving entity, shall be entitled to the same rights.

''(4) The Commission shall exercise the authority of the Commission under this Act in a manner that facilitates the planning and expansion of transmission facilities to meet the reasonable needs of load-serving entities to satisfy the service obligations of the load-serving entities, and enables load-serving entities to secure firm transmission rights (or equivalent tradable or financial rights) on a long term basis for long term power supply arrangements made, or planned, to meet such needs.

''(c) ALLOCATION OF TRANSMISSION RIGHTS.—Nothing in subsections (b)(1), (b)(2) and (b)(3) of this section shall affect any existing or future methodology employed by a Transmission Organization for allocating or auctioning transmission rights if such Transmission Organization was authorized by the Commission to allocate or auction financial transmission rights on its system as of January 1, 2005, and the Commission determines that any future allocation or auction is just, reasonable and not unduly discriminatory or preferential, provided, however, that if such a Transmission Organization never allocated financial transmission rights on its system that pertained to a period before January 1, 2005, with respect to any application by such Transmission Organization that would change its methodology the Commission shall exercise its authority in a manner consistent with the Act and that takes into account the policies expressed in subsections (b)(1), (b)(2) and (b)(3) as applied to firm transmission rights held by a load-serving entity as of January 1, 2005, to the extent the associated generation ownership or power purchase arrangements remain in effect.

''(d) CERTAIN TRANSMISSION RIGHTS.—The Commission may exercise authority under this Act to make transmission rights not used to meet an obligation covered by subsection (b) available to other entities in a manner determined by the Commission to be just, reasonable, and not unduly discriminatory or preferential.

''(e) OBLIGATION TO BUILD.—Nothing in this Act relieves a load-serving entity from any

obligation under State or local law to build transmission or distribution facilities adequate to meet the service obligations of the load-serving entity.

''(f) CONTRACTS.—Nothing in this section shall provide a basis for abrogating any contract or service agreement for firm transmission service or rights in effect as of the date of the enactment of this subsection. If an ISO in the Western Interconnection had allocated financial transmission rights prior to the date of enactment of this section but had not done so with respect to one or more load-serving entities' firm transmission rights held under contracts to which the preceding sentence applies (or held by reason of ownership or future ownership of transmission facilities), such load-serving entities may not be required, without their consent, to convert such firm transmission rights to tradable or financial rights, except where the load-serving entity has voluntarily joined the ISO as a participating transmission owner (or its successor) in accordance with the ISO tariff.

''(g) WATER PUMPING FACILITIES.—The Commission shall ensure that any entity described in section 201(f) that owns transmission facilities used predominately to support its own water pumping facilities shall have, with respect to the facilities, protections for transmission service comparable to those provided to load-serving entities pursuant to this section.

''(h) ERCOT.—This section shall not apply within the area referred to in section 212(k)(2)(A).

''(i) JURISDICTION.—This section does not authorize the Commission to take any action not otherwise within the jurisdiction of the Commission.

''(j) TVA AREA.—(1) Subject to paragraphs (2) and (3), for purposes of subsection (b)(1)(B), a load-serving entity that is located within the service area of the Tennessee Valley Authority and that has a firm wholesale power supply contract with the Tennessee Valley Authority shall be considered to hold firm transmission rights for the transmission of the power provided.

''(2) Nothing in this subsection affects the requirements of section 212(j).

''(3) The Commission shall not issue an order on the basis of this subsection that is contrary to the purposes of section 212(j).''.

(h) FERC RULEMAKING ON LONG-TERM TRANSMISSION RIGHTS IN ORGANIZED MARKETS.—Within one year after the date of enactment of this section and after notice and an opportunity for comment, the Commission shall by rule or order implement subsection (b)(4) in Transmission Organizations with organized electricity markets.

(i) EFFECT OF EXERCISING RIGHTS.—An entity that to the extent required to meet its service obligations exercises rights described in subsection (b) shall not be considered by such action as engaging in undue discrimination or preference under this Act.

SEC. 1236. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1235) is amended by adding at the end the following:

''SEC. 219. PROTECTION OF TRANSMISSION CONTRACTS IN THE PACIFIC NORTHWEST.

''(a) DEFINITION OF ELECTRIC UTILITY OR PERSON.—In this section, the term 'electric utility or person' means an electric utility or person that—

''(1) as of the date of enactment of the Energy Policy Act of 2005 holds firm transmission rights pursuant to contract or by reason of ownership of transmission facilities; and

''(2) is located—

''(A) in the Pacific Northwest, as that region is defined in section 3 of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a); or

''(B) in that portion of a State included in the geographic area proposed for a regional transmission organization in Commission Docket Number RT01–35 on the date on which that docket was opened.

''(b) PROTECTION OF TRANSMISSION CONTRACTS.—Nothing in this Act confers on the Commission the authority to require an electric utility or person to convert to tradable or financial rights—

''(1) firm transmission rights described in subsection (a)(1); or

''(2) firm transmission rights obtained by exercising contract or tariff rights associated with the firm transmission rights described in subsection (a)(1).''.

Subtitle D—Transmission Rate Reform

SEC. 1241. TRANSMISSION INFRASTRUCTURE INVESTMENT.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1236) is amended by adding at the end the following:

''SEC. 220. TRANSMISSION INFRASTRUCTURE INVESTMENT.

''(a) RULEMAKING REQUIREMENT.—Not later than 1 year after the date of enactment of this section, the Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefiting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

''(b) CONTENTS.—The rule shall—

''(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

''(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

''(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

''(4) allow recovery of—

''(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 215; and

''(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 216.

''(c) JUST AND REASONABLE RATES.—All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 205 and 206 that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.''.

SEC. 1242. FUNDING NEW INTERCONNECTION AND TRANSMISSION UPGRADES.

The Commission may approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 205 and 206 of the Federal Power Act (16 U.S.C. 824d, 824e).

Subtitle E—Amendments to PURPA

SEC. 1251. NET METERING AND ADDITIONAL STANDARDS.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

''(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

''(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by paragraphs (11) through (13) of section 111(d).

''(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.''.

(B) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13).''.

SEC. 1252. SMART METERING.

(a) IN GENERAL.—Section 111(d) of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is amended by adding at the end the following:

''(14) TIME-BASED METERING AND COMMUNICATIONS.—

''(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

''(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

''(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

''(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

''(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

''(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce the planned capacity obligations of a utility.

''(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

''(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

''(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

''(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).''.

(b) STATE INVESTIGATION OF DEMAND RESPONSE AND TIME-BASED METERING.—Section 115 of the Public Utilities Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended as follows:

(1) By inserting in subsection (b) after the phrase ''the standard for time-of-day rates established by section 111(d)(3)'' the following: ''and the standard for time-based metering and communications established by section 111(d)(14)''.

(2) By inserting in subsection (b) after the phrase ''are likely to exceed the metering'' the following: ''and communications''.

(3) By adding at the end the following:

''(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.''.

(c) FEDERAL ASSISTANCE ON DEMAND RESPONSE.—Section 132(a) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(a)) is amended by striking ''and'' at the end of paragraph (3), striking the period at the end of paragraph (4) and inserting ''; and'', and by adding the following at the end thereof:

''(5) technologies, techniques, and ratemaking methods related to advanced metering and communications and the use of these technologies, techniques and methods in demand response programs.''.

(d) FEDERAL GUIDANCE.—Section 132 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642) is amended by adding the following at the end thereof:

''(d) DEMAND RESPONSE.—The Secretary shall be responsible for—

''(1) educating consumers on the availability, advantages, and benefits of advanced metering and communications technologies, including the funding of demonstration or pilot projects;

''(2) working with States, utilities, other energy providers and advanced metering and communications experts to identify and address barriers to the adoption of demand response programs; and

''(3) not later than 180 days after the date of enactment of the Energy Policy Act of 2005, providing Congress with a report that identifies and quantifies the national benefits of demand response and makes a recommendation on achieving specific levels of such benefits by January 1, 2007.''.

(e) DEMAND RESPONSE AND REGIONAL COORDINATION.—

(1) IN GENERAL.—It is the policy of the United States to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable demand response services to the public.

(2) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States and regional organizations formed by 2 or more States to assist them in—

(A) identifying the areas with the greatest demand response potential;

(B) identifying and resolving problems in transmission and distribution networks, including through the use of demand response;

(C) developing plans and programs to use demand response to respond to peak demand or emergency needs; and

(D) identifying specific measures consumers can take to participate in these demand response programs.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall prepare and publish an annual report, by appropriate region, that assesses demand response resources, including those available from all consumer classes, and which identifies and reviews—

(A) saturation and penetration rate of advanced meters and communications technologies, devices and systems;

(B) existing demand response programs and time-based rate programs;

(C) the annual resource contribution of demand resources;

(D) the potential for demand response as a quantifiable, reliable resource for regional planning purposes;

(E) steps taken to ensure that, in regional transmission planning and operations, demand resources are provided equitable treatment as a quantifiable, reliable resource relative to the resource obligations of any load-serving entity, transmission provider, or transmitting party; and

(F) regulatory barriers to improved customer participation in demand response, peak reduction, and critical period pricing programs.

(f) FEDERAL ENCOURAGEMENT OF DEMAND RESPONSE DEVICES.—It is the policy of the United States that time-based pricing and other forms of demand response, whereby electricity customers are provided with electricity price signals and the ability to benefit by responding to them, shall be encouraged, and the deployment of such technology and devices that enable electricity customers to participate in such pricing and demand response systems shall be facilitated, and unnecessary barriers to demand response participation in energy, capacity, and ancillary service markets shall be eliminated. It is further the policy of the United States that the benefits of such demand response that accrue to those not deploying such technology and devices, but who are part of the same regional electricity entity, shall be recognized.

(g) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) is amended by adding at the end the following:

''(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

''(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).''.

(h) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) is amended by adding at the end the following:

''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

(i) PRIOR STATE ACTIONS REGARDING SMART METERING STANDARDS.—

(1) IN GENERAL.—Section 112 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622) is amended by adding at the end the following:

''(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

''(1) the State has implemented for such utility the standard concerned (or a comparable standard);

''(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

''(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.''.

(2) CROSS REFERENCE.—Section 124 of such Act (16 U.S.C. 2634) is amended by adding the following at the end thereof: ''In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14).''.

SEC. 1253. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.

(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:

''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—

''(1) OBLIGATION TO PURCHASE.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to purchase electric energy from a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that the qualifying cogeneration facility or qualifying small power production facility has nondiscriminatory access to—

''(A)(i) independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy; and (ii) wholesale markets for long-term sales of capacity and electric energy; or

''(B)(i) transmission and interconnection services that are provided by a Commission-approved regional transmission entity and administered pursuant to an open access transmission tariff that affords nondiscriminatory treatment to all customers; and (ii) competitive wholesale markets that provide a meaningful opportunity to sell capacity, including long-term and short-term sales, and electric energy, including long-term, short-term and real-time sales, to buyers other than the utility to which the qualifying facility is interconnected. In determining whether a meaningful opportunity to sell exists, the Commission shall consider, among other factors, evidence of transactions within the relevant market; or

''(C) wholesale markets for the sale of capacity and electric energy that are, at a minimum, of comparable competitive quality as markets described in subparagraphs (A) and (B).

''(2) REVISED PURCHASE AND SALE OBLIGATION FOR NEW FACILITIES.—(A) After the date of enactment of this subsection, no electric utility shall be required pursuant to this section to enter into a new contract or obligation to purchase from or sell electric energy to a facility that is not an existing qualifying cogeneration facility unless the facility meets the criteria for qualifying cogeneration facilities established by the Commission pursuant to the rulemaking required by subsection (n).

''(B) For the purposes of this paragraph, the term 'existing qualifying cogeneration facility' means a facility that—

''(i) was a qualifying cogeneration facility on the date of enactment of subsection (m); or

''(ii) had filed with the Commission a notice of self-certification, self recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by subsection (n).

''(3) COMMISSION REVIEW.—Any electric utility may file an application with the Commission for relief from the mandatory purchase obligation pursuant to this subsection on a service territory-wide basis. Such application shall set forth the factual basis upon which relief is requested and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection have been met. After notice, including sufficient notice to potentially affected qualifying cogeneration facilities and qualifying small power production facilities, and an opportunity for comment, the Commission shall make a final determination within 90 days of such application regarding whether the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) have been met.

''(4) REINSTATEMENT OF OBLIGATION TO PURCHASE.—At any time after the Commission makes a finding under paragraph (3) relieving an electric utility of its obligation to purchase electric energy, a qualifying cogeneration facility, a qualifying small power production facility, a State agency, or any other affected person may apply to the Commission for an order reinstating the electric utility's obligation to purchase electric energy under this section. Such application shall set forth the factual basis upon which the application is based and describe why the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) of this subsection are no longer met. After notice, including sufficient notice to potentially affected utilities, and opportunity for comment, the Commission shall issue an order within 90 days of such application reinstating the electric utility's obligation to purchase electric energy under this section if the Commission finds that the conditions set forth in subparagraphs (A), (B) or (C) of paragraph (1) which relieved the obligation to purchase, are no longer met.

''(5) OBLIGATION TO SELL.—After the date of enactment of this subsection, no electric utility shall be required to enter into a new contract or obligation to sell electric energy to a qualifying cogeneration facility or a qualifying small power production facility under this section if the Commission finds that—

''(A) competing retail electric suppliers are willing and able to sell and deliver electric energy to the qualifying cogeneration facility or qualifying small power production facility; and

''(B) the electric utility is not required by State law to sell electric energy in its service territory.

''(6) NO EFFECT ON EXISTING RIGHTS AND REMEDIES.—Nothing in this subsection affects the rights or remedies of any party under any contract or obligation, in effect or pending approval before the appropriate State regulatory authority or non-regulated electric utility on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a qualifying cogeneration facility or qualifying small power production facility under this Act (including the right to recover costs of purchasing electric energy or capacity).

''(7) RECOVERY OF COSTS.—(A) The Commission shall issue and enforce such regulations as are necessary to ensure that an electric utility that purchases electric energy or capacity from a qualifying cogeneration facility or qualifying small power production facility in accordance with any legally enforceable obligation entered into or imposed under this section recovers all prudently incurred costs associated with the purchase.

''(B) A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).

''(n) RULEMAKING FOR NEW QUALIFYING FACILITIES.—(1)(A) Not later than 180 days after the date of enactment of this section, the Commission shall issue a rule revising the criteria in 18 C.F.R. 292.205 for new qualifying cogeneration facilities seeking to sell electric energy pursuant to section 210 of this Act to ensure—

''(i) that the thermal energy output of a new qualifying cogeneration facility is used in a productive and beneficial manner;

''(ii) the electrical, thermal, and chemical output of the cogeneration facility is used fundamentally for industrial, commercial, or institutional purposes and is not intended fundamentally for sale to an electric utility, taking into account technological, efficiency, economic, and variable thermal energy requirements, as well as State laws applicable to sales of electric energy from a qualifying facility to its host facility; and

''(iii) continuing progress in the development of efficient electric energy generating technology.

''(B) The rule issued pursuant to section (n)(1)(A) shall be applicable only to facilities that seek to sell electric energy pursuant to section 210 of this Act. For all other purposes, except as specifically provided in section (m)(2)(A), qualifying facility status shall be determined in accordance with the rules and regulations of this Act.

''(2) Notwithstanding rule revisions under paragraph (1), the Commission's criteria for qualifying cogeneration facilities in effect prior to the date on which the Commission issues the final rule required by paragraph (1) shall continue to apply to any cogeneration facility that—

''(A) was a qualifying cogeneration facility on the date of enactment of subsection (m), or

''(B) had filed with the Commission a notice of self-certification, self-recertification or an application for Commission certification under 18 C.F.R. 292.207 prior to the date on which the Commission issues the final rule required by paragraph (1).''.

(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—

(1) QUALIFYING SMALL POWER PRODUCTION FACILITY.—Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:

''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe;''.

(2) QUALIFYING COGENERATION FACILITY.—Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:

''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe;''.

SEC. 1254. INTERCONNECTION.

(a) ADOPTION OF STANDARDS.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) (as amended by section 1252(a)) is amended by adding at the end the following:

''(15) INTERCONNECTION.—(A) In this paragraph, the term 'interconnection service' means service to an electric consumer by which an on-site generating facility on the premises of the electric consumer is connected to the local distribution facilities.

''(B)(i) Each electric utility shall make available, on request, interconnection service to any electric consumer that the electric utility serves.

''(ii) Interconnection services shall be made available under clause (i) based on the standards developed by the Institute of Electrical and Electronics Engineers, entitled ''IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems'' (or successor standards).

''(C)(i) Electric utilities shall establish agreements and procedures providing that the interconnection services made available under subparagraph (B) promote current best practices of interconnection for distributed generation, including practices stipulated in model codes adopted by associations of State regulatory agencies.

''(ii) Any agreements and procedures established under clause (i) shall be just and reasonable and not unduly discriminatory or preferential.''.

(b) COMPLIANCE.—

(1) TIME LIMITATIONS.—Section 112(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(b)) (as amended by section 1252(g)) is amended by adding at the end the following:

''(5)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated utility shall, with respect to the standard established by section 111(d)(15)—

''(i) commence the consideration under section 111(a); or

''(ii) set a hearing date for the consideration.

''(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State regulatory authority has ratemaking authority) and each nonregulated electric utility shall, with respect to the standard established by section 111(d)(15), complete the consideration and make the determination under section 111(a).''.

(2) FAILURE TO COMPLY.—Section 112(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(c)) (as amended by section 1252(h)) is amended by adding at the end the following: ''In the case of the standard established by paragraph (15), the reference contained in this subsection to the date of enactment of this Act shall be considered to be a reference to the date of enactment of paragraph (15).''.

(3) PRIOR STATE ACTIONS.—

(A) IN GENERAL.—Section 112(e) of the Public Utility Regulatory Policies Act of 1978 (as added by section 1252(i)(1)) is amended by striking ''paragraph 14'' and inserting ''paragraph (14) or (15)''.

(B) CONFORMING AMENDMENT.—Section 124 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634) (as amended by section 1252(i)(2)) is amended by adding at the end the following: ''In the case of each standard established by section 111(d)(15), the reference contained in this section to the date of enactment of the Act shall be considered to be a reference to the date of enactment of paragraph (15).''.

Subtitle F—Market Transparency, Enforcement, and Consumer Protection

SEC. 1261. MARKET TRANSPARENCY RULES.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1241) is amended by adding at the end the following:

''SEC. 221. MARKET TRANSPARENCY RULES.

''(a) IN GENERAL.—The Commission may issue such rules as the Commission considers to be appropriate to establish an electronic information system to provide the Commission and the public with access to such information as is necessary or appropriate to facilitate price transparency and participation in markets for the sale in interstate commerce of electric energy at wholesale.

''(b) INFORMATION TO BE MADE AVAILABLE.—(1) The system under subsection (a) shall provide, on a timely basis, information about the availability and market price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

''(2) In determining the information to be made available under the system and the time at which to make such information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

''(c) AUTHORITY TO OBTAIN INFORMATION.—The Commission shall have authority to obtain information described in subsections (a) and (b) from any electric utility or transmitting utility (including any entity described in section 201(f)).

''(d) EXEMPTIONS.—The rules of the Commission, if adopted, shall exempt from disclosure information that the Commission determines would, if disclosed—

''(1) be detrimental to the operation of an effective market; or

''(2) jeopardize system security.

''(e) COMMODITY FUTURES TRADING COMMISSION.—(1) This section shall not affect the exclusive jurisdiction of the Commodity Futures Trading Commission with respect to accounts, agreements, contracts, or transactions in commodities under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

''(2) Any request for information to a designated contract market, registered derivatives transaction execution facility, board of trade, exchange, or market involving an account, agreement, contract, or transaction in a commodity (including natural gas, electricity and other energy commodities) within the exclusive jurisdiction of the Commodity Futures Trading Commission shall be directed to the Commodity Futures Trading Commission, which shall cooperate in responding to any information request by the Commission.

''(f) SAVINGS PROVISION.—In exercising authority under this section, the Commission shall not—

''(1) compete with, or displace from the market place, any price publisher (including any electronic price publisher); or

''(2) regulate price publishers (including any electronic price publisher) or impose any requirements on the publication of information by price publishers (including any electronic price publisher).

''(g) ERCOT.—This section shall not apply to a transaction for the purchase or sale of wholesale electric energy or transmission services within the area described in section 212(k)(2)(A).''.

SEC. 1262. FALSE STATEMENTS.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1261) is amended by adding at the end the following:

''SEC. 222. PROHIBITION ON FILING FALSE INFORMATION.

''No entity (including an entity described in section 201(f)) shall willfully and knowingly report any information relating to the price of electricity sold at wholesale or the availability of transmission capacity, which information the person or any other entity knew to be false at the time of the reporting, to a Federal agency with intent to fraudulently affect the data being compiled by the Federal agency.''.

SEC. 1263. MARKET MANIPULATION.

Part II of the Federal Power Act (16 U.S.C. 824 et seq.) (as amended by section 1262) is amended by adding at the end the following:

''SEC. 223. PROHIBITION OF ENERGY MARKET MANIPULATION.

''It shall be unlawful for any entity (including an entity described in section 201(f)), directly or indirectly, to use or employ, in connection with the purchase or sale of electric energy or the purchase or sale of transmission services subject to the jurisdiction of the Commission, any manipulative or deceptive device or contrivance (as those terms are used in section 10(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78j(b))), in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of electric ratepayers.''.

SEC. 1264. ENFORCEMENT.

(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended—

(1) by inserting ''electric utility,'' after ''Any person,''; and

(2) by 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—

(1) by inserting '', electric utility, transmitting utility, or other entity'' after ''person'' each place it appears; and

(2) in the first sentence, by inserting before the period at the end the following: '', or in obtaining information about the sale of electric energy at wholesale in interstate commerce and the transmission of electric energy in interstate commerce''.

(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 825*l*) is amended by inserting ''electric utility,'' after ''person,'' in the first 2 places it appears and by striking ''any person unless such person'' and inserting ''any entity unless such entity''.

(d) CRIMINAL PENALTIES.—Section 316 of the Federal Power Act (16 U.S.C. 825o) is amended—

(1) in subsection (a)—

(A) by striking ''$5,000'' and inserting ''$1,000,000''; and

(B) by striking ''two years'' and inserting ''5 years'';

(2) in subsection (b), by striking ''$500'' and inserting ''$25,000''; and

(3) by striking subsection (c).

(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended—

(1) by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''part II''; and

(2) in subsection (b), by striking ''$10,000'' and inserting ''$1,000,000''.

SEC. 1265. REFUND EFFECTIVE DATE.

Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended—

(1) by striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';

(2) by striking ''60 days after'' in the third sentence and inserting ''of'';

(3) by striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''; and

(4) by striking the fifth sentence and inserting the following: ''If no final decision is rendered by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision.''.

SEC. 1266. REFUND AUTHORITY.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:

''(e)(1) In this subsection:

''(A) The term 'short-term sale' means an agreement for the sale of electric energy at wholesale in interstate commerce that is for a period of 48 hours or less.

''(B) The term 'applicable Commission rule' means a Commission rule applicable to sales at wholesale by public utilities that the Commission determines after notice and comment should also be applicable to entities subject to this subsection.

''(2) If an entity described in section 201(f) voluntarily makes a short-term sale of electric energy through an organized market in which the rates for the sale are established by Commission-approved tariff (rather than by contract) and the sale violates the terms of the tariff or applicable Commission rules in effect at the time of the sale, the entity shall be subject to the refund authority of the Commission under this section with respect to the violation.

''(3) This section shall not apply to—

''(A) any entity that sells in total (including affiliates of the entity) less than 8,000,000 megawatt hours of electricity per year; or

''(B) any electric cooperative.

''(4)(A) The Commission shall have refund authority under paragraph (2) with respect to a voluntary short-term sale of electric energy by the Bonneville Power Administration only if the sale is at an unjust and unreasonable rate.

''(B) The Commission may order a refund under subparagraph (A) only for short-term sales made by the Bonneville Power Administration at rates that are higher than the highest just and reasonable rate charged by any other entity for a short-term sale of electric energy in the same geographic market for the same, or most nearly comparable, period as the sale by the Bonneville Power Administration.

''(5) In the case of any Federal power marketing agency or the Tennessee Valley Authority, the Commission shall not assert or exercise any regulatory authority or power under paragraph (2) other than the ordering of refunds to achieve a just and reasonable rate.''.

SEC. 1267. CONSUMER PRIVACY AND UNFAIR TRADE PRACTICES.

(a) DEFINITIONS.—In this section:

(1) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(2) STATE REGULATORY AUTHORITY.—The term ''State regulatory authority'' has the meaning given the term in section 3 of the Federal Power Act (16 U.S.C. 796).

(3) ELECTRIC CONSUMER; ELECTRIC UTILITY.—The terms ''electric consumer'' and ''electric utility'' have the meanings given those terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).

(b) PRIVACY.—The Commission may issue rules protecting the privacy of electric consumers from the disclosure of consumer information obtained in connection with the sale or delivery of electric energy to electric consumers.

(c) SLAMMING.—The Commission may issue rules prohibiting the change of selection of an electric utility except with the informed consent of the electric consumer or if approved by the appropriate State regulatory authority.

(d) CRAMMING.—The Commission may issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.

(e) RULEMAKING.—The Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule under this section.

(f) STATE AUTHORITY.—If the Commission determines that the regulations of a State provide equivalent or greater protection than the protection provided under this section, the regulations of the State shall apply in that State in lieu of the regulations issued by the Commission under this section.

SEC. 1268. OFFICE OF CONSUMER ADVOCACY.

(a) DEFINITIONS.—In this section:

(1) ENERGY CUSTOMER.—The term ''energy customer'' means a residential customer or a small commercial customer that receives products or services from a public utility or natural gas company under the jurisdiction of the Commission.

(2) NATURAL GAS COMPANY.—The term ''natural gas company'' has the meaning given the term in section 2 of the Natural Gas Act (15 U.S.C. 717a), as modified by section 601(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3431(a)).

(3) OFFICE.—The term ''Office'' means the Office of Consumer Advocacy established by subsection (b)(1).

(4) PUBLIC UTILITY.—The term ''public utility'' has the meaning given the term in section 201(e) of the Federal Power Act (16 U.S.C. 824(e)).

(5) SMALL COMMERCIAL CUSTOMER.—The term ''small commercial customer'' means a commercial customer that has a peak demand of not more than 1,000 kilowatts per hour.

(b) OFFICE.—

(1) ESTABLISHMENT.—There is established within the Department the Office of Consumer Advocacy.

(2) DUTIES.—The Office may represent the interests of energy customers on matters concerning rates or service of public utilities and natural gas companies under the jurisdiction of the Commission—

(A) at hearings of the Commission;

(B) in civil actions brought in connection with any function carried out by the Commission, except as provided in section 518 of title 28, United States Code; and

(C) at hearings or proceedings of other Federal regulatory agencies and commissions.

SEC. 1269. AUTHORITY OF COURT TO PROHIBIT PERSONS FROM SERVING AS OFFICERS, DIRECTORS, AND ENERGY TRADERS.

Section 314 of the Federal Power Act (16 U.S.C. 825m) is amended by adding at the end the following:

''(d) In any proceedings under subsection (a), the court may prohibit, conditionally or unconditionally, and permanently or for such period of time as the court determines, any person who is engaged or has engaged in practices constituting a violation of section 222 (and related rules and regulations) from—

''(1) acting as an officer or director of an electric utility; or

''(2) engaging in the business of purchasing or selling—

''(A) electric energy; or

''(B) transmission services subject to the jurisdiction of the Commission.''.

SEC. 1270. RELIEF FOR EXTRAORDINARY VIOLATIONS.

(a) APPLICATION.—This section applies to any contract entered into the Western Interconnection prior to June 20, 2001, with a seller of wholesale electricity that the Commission has—

(1) found to have manipulated the electricity market resulting in unjust and unreasonable rates; and

(2) revoked the seller's authority to sell any electricity at market-based rates.

(b) RELIEF.—Notwithstanding section 222 of the Federal Power Act (as added by section 1262), any provision of title 11, United States Code, or any other provision of law, in the case of a contract described in subsection (a), the Commission shall have exclusive jurisdiction under the Federal Power Act (16 U.S.C. 791a et seq.) to determine whether a requirement to make termination payments for power not delivered by the seller, or any successor in interest of the seller, is unlawful on the grounds that it is unjust and unreasonable.

(c) APPLICABILITY.—This section applies to any proceeding pending on the date of enactment of this section involving a seller described in subsection (a) in which there is not a final, nonappealable order by the Commission or any other jurisdiction determining the respective rights of the seller.

Subtitle G—Repeal of PUHCA and Merger Reform

SEC. 1271. SHORT TITLE.

This subtitle may be cited as the ''Public Utility Holding Company Act of 2005''.

SEC. 1272. DEFINITIONS.

For purposes of this subtitle:

(1) AFFILIATE.—The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) ASSOCIATE COMPANY.—The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) COMPANY.—The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) ELECTRIC UTILITY COMPANY.—The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) EXEMPT WHOLESALE GENERATOR AND FOREIGN UTILITY COMPANY.—The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.

(7) GAS UTILITY COMPANY.—The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.

(8) HOLDING COMPANY.—The term ''holding company'' means—

(A) any company that directly or indirectly owns, controls, or holds, with power to

vote, 10 percent or more of the outstanding voting securities of a public-utility company or of a holding company of any public-utility company; and

(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with 1 or more persons) such a controlling influence over the management or policies of any public-utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.

(9) HOLDING COMPANY SYSTEM.—The term ''holding company system'' means a holding company, together with its subsidiary companies.

(10) JURISDICTIONAL RATES.—The term ''jurisdictional rates'' means rates accepted or established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.

(11) NATURAL GAS COMPANY.—The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.

(12) PERSON.—The term ''person'' means an individual or company.

(13) PUBLIC UTILITY.—The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.

(14) PUBLIC-UTILITY COMPANY.—The term ''public-utility company'' means an electric utility company or a gas utility company.

(15) STATE COMMISSION.—The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.

(16) SUBSIDIARY COMPANY.—The term ''subsidiary company'' of a holding company means—

(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and

(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with 1 or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.

(17) VOTING SECURITY.—The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.

SEC. 1273. 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. 1274. FEDERAL ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission determines are relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission determines are relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.

(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.

SEC. 1275. STATE ACCESS TO BOOKS AND RECORDS.

(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public-utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public-utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—

(1) have been identified in reasonable detail in a proceeding before the State commission;

(2) the State commission determines are relevant to costs incurred by such public-utility company; and

(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.

(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of 1 or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).

(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.

(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.

(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.

SEC. 1276. EXEMPTION AUTHORITY.

(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall issue a final rule to exempt from the requirements of section 1274 (relating to Federal access to books and records) any person that is a holding company, solely with respect to 1 or more—

(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);

(2) exempt wholesale generators; or

(3) foreign utility companies.

(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 1274 (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or

(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

SEC. 1277. AFFILIATE TRANSACTIONS.

(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

SEC. 1278. APPLICABILITY.

Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—

(1) the United States;

(2) a State or any political subdivision of a State;

(3) any foreign governmental authority not operating in the United States;

(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or

(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

SEC. 1279. 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. 1280. 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. 1281. SAVINGS PROVISIONS.

(a) IN GENERAL.—Nothing in this subtitle, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally

engaged or authorized to engage on the date of enactment of this Act, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

SEC. 1282. IMPLEMENTATION.

Not later than 4 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 1275, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.

SEC. 1283. 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. 1284. EFFECTIVE DATE.

(a) IN GENERAL.—Except for section 1282 (relating to implementation), this subtitle shall take effect 6 months after the date of enactment of this subtitle.

(b) COMPLIANCE WITH CERTAIN RULES.—If the Commission approves and makes effective any final rulemaking modifying the standards of conduct governing entities that own, operate, or control facilities for transmission of electricity in interstate commerce or transportation of natural gas in interstate commerce prior to the effective date of this subtitle, any action taken by a public-utility company or utility holding company to comply with the requirements of such rulemaking shall not subject such public-utility company or utility holding company to any regulatory requirement applicable to a holding company under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.).

SEC. 1285. SERVICE ALLOCATION.

(a) FERC REVIEW.—In the case of nonpower goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State commission having jurisdiction over the public utility, the Commission, after the effective date of this subtitle, shall review and authorize the allocation of the costs for such goods or services to the extent relevant to that associate company in order to assure that each allocation is appropriate for the protection of investors and consumers of such public utility.

(b) COST ALLOCATION.—Nothing in this section shall preclude the Commission or a State commission from exercising its jurisdiction under other applicable law with respect to the review or authorization of any costs allocated to a public utility in a holding company system located in the affected State as a result of the acquisition of nonpower goods or administrative and management services by such public utility from an associate company organized specifically for that purpose.

(c) RULES.—Not later than 6 months after the date of enactment of this Act, the Commission shall issue rules (which rules shall be effective no earlier than the effective date of this subtitle) to exempt from the requirements of this section any company in a holding company system whose public utility operations are confined substantially to a single State and any other class of transactions that the Commission finds is not relevant to the jurisdictional rates of a public utility.

(d) PUBLIC UTILITY.—As used in this section, the term ''public utility'' has the meaning given that term in section 201(e) of the Federal Power Act.

SEC. 1286. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.

SEC. 1287. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.

(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.

(b) DEFINITIONS.—(1) Section 201(g)(5) of the Federal Power Act (16 U.S.C. 824(g)(5)) is amended by striking ''1935'' and inserting ''2005''.

(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ''1935'' and inserting ''2005''.

SEC. 1288. MERGER REVIEW REFORM.

(a) IN GENERAL.—Section 203(a) of the Federal Power Act (16 U.S.C. 824b(a)) is amended to read as follows:

''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—

''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000;

''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with those of any other person, by any means whatsoever;

''(C) purchase, acquire, or take any security with a value in excess of $10,000,000 of any other public utility; or

''(D) purchase, lease, or otherwise acquire an existing generation facility—

''(i) that has a value in excess of $10,000,000; and

''(ii) that is used for interstate wholesale sales and over which the Commission has jurisdiction for ratemaking purposes.

''(2) No holding company in a holding company system that includes a transmitting utility or an electric utility shall purchase, acquire, or take any security with a value in excess of $10,000,000 of, or, by any means whatsoever, directly or indirectly, merge or consolidate with, a transmitting utility, an electric utility company, or 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 with a value in excess of $10,000,000 without first having secured an order of the Commission authorizing it to do so.

''(3) Upon receipt of an application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.

''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or change in control, if it finds that the proposed transaction—

''(A) will be consistent with the public interest, taking into account the effect of the transaction on competition in the electricity markets, electric rates, and effective regulation; and

''(B) shall not result in cross-subsidization of a non-utility associate company or the pledge or encumbrance of utility assets for the benefit of an associate company, unless the Commission determines that the cross-subsidization, pledge, or encumbrance would not be harmful.

''(5) The Commission shall, by rule, adopt procedures for the expeditious consideration of applications for the approval of dispositions, consolidations, or acquisitions, under this section. Such rules shall identify classes of transactions, or specify criteria for transactions, that normally meet the standards established in paragraph (4). The Commission shall provide expedited review for such transactions. The Commission shall grant or deny any other application for approval of a transaction not later than 180 days after the application is filed. If the Commission does not act within 180 days, such application shall be deemed granted unless the Commission finds, based on good cause, that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues an order tolling the time for acting on the application for not more than 180 days, at the end of which additional period the Commission shall grant or deny the application.

''(6) For purposes of this subsection, the terms 'associate company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2005.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 6 months after the date of enactment of this Act.

Subtitle H—Definitions

SEC. 1291. DEFINITIONS.

(a) COMMISSION.—In this title, the term ''Commission'' means the Federal Energy Regulatory Commission.

(b) AMENDMENT.—Section 3 of the Federal Power Act (16 U.S.C. 796) is amended—

(1) by striking paragraphs (22) and (23) and inserting the following:

''(22) ELECTRIC UTILITY.—(A) The term 'electric utility' means a person or Federal or State agency (including an entity described in section 201(f)) that sells electric energy.

''(B) The term 'electric utility' includes the Tennessee Valley Authority and each Federal power marketing administration.

''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity (including an entity described in section 201(f)) that owns, operates, or controls facilities used for the transmission of electric energy—

''(A) in interstate commerce;

''(B) for the sale of electric energy at wholesale.''; and

(2) by adding at the end the following:

''(26) ELECTRIC COOPERATIVE.—The term 'electric cooperative' means a cooperatively owned electric utility.

''(27) RTO.—The term 'Regional Transmission Organization' or 'RTO' means an entity of sufficient regional scope approved by the Commission—

''(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

''(B) to ensure nondiscriminatory access to the facilities.

''(28) ISO.—The term 'Independent System Operator' or 'ISO' means an entity approved by the Commission—

''(A) to exercise operational or functional control of facilities used for the transmission of electric energy in interstate commerce; and

''(B) to ensure nondiscriminatory access to the facilities.

''(29) TRANSMISSION ORGANIZATION.—The term 'Transmission Organization' means a Regional Transmission Organization, Independent System Operator, independent

transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.''.

(c) APPLICABILITY.—Section 201(f) of the Federal Power Act (16 U.S.C. 824(f)) is amended by striking ''political subdivision of a state,'' and inserting ''political subdivision of a State, an electric cooperative that receives financing under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) or that sells less than 4,000,000 megawatt hours of electricity per year,''.

Subtitle I—Technical and Conforming Amendments

SEC. 1295. CONFORMING AMENDMENTS.

(a) Section 201 of the Federal Power Act (16 U.S.C. 824) is amended—

(1) in subsection (b)(2)—

(A) in the first sentence—

(i) by striking ''The'' and inserting ''Notwithstanding section 201(f), the''; and

(ii) by striking ''210, 211, and 212'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, and 223''; and

(B) in the second sentence—

(i) by inserting ''or rule'' after ''any order''; and

(ii) by striking ''210 or 211'' and inserting ''203(a)(2), 206(e), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, or 223''; and

(2) in subsection (e), by striking ''210, 211, or 212'' and inserting ''206(e), 206(f), 210, 211, 211A, 212, 215, 216, 217, 218, 219, 220, 221, 222, or 223''.

(b) Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended—

(1) in the first sentence of subsection (a), by striking ''hearing had'' and inserting ''hearing held''; and

(2) in the seventh sentence of subsection (b), by striking ''the public utility to make''.

(c) Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended—

(1) in subsection (c)—

(A) by striking ''(2)'';

(B) by striking ''(A)'' and inserting ''(1)''

(C) by striking ''(B)'' and inserting ''(2)''; and

(D) by striking ''termination of modification'' and inserting ''termination or modification''; and

(2) in the second sentence of subsection (d)(1), by striking ''electric utility'' the second place it appears and inserting ''transmitting utility''.

(d) Section 315(c) of the Federal Power Act (16 U.S.C. 825n(c)) is amended by striking ''subsection'' and inserting ''section''.

TITLE XIII—STUDIES

SEC. 1301. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol, building on the Master Plan Study for the Capitol complex completed in July 2000, shall commission a study to evaluate the energy infrastructure of the Capitol complex to determine how to augment the infrastructure to become more energy efficient—

(1) by using unconventional and renewable energy resources; and

(2) in a manner that would enable the Capitol complex to have reliable utility service in the event of power fluctuations, shortages, or outages.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Architect of the Capitol to carry out this section $2,000,000 for each of fiscal years 2006 through 2010.

SEC. 1302. INCREASED HYDROELECTRIC GENERATION AT EXISTING FEDERAL FACILITIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior, in consultation with the Secretary of the Army, shall conduct a study of the potential for increasing electric power production capability, in accordance with applicable law, at federally owned or operated water regulation, storage, and conveyance facilities.

(2) CONTENTS.—The study under paragraph (1) shall include an identification and detailed description of each facility that is capable, with or without modification, of producing additional hydroelectric power, including an estimate of the potential of the facility to generate hydroelectric power.

(b) REPORT.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretaries shall submit to the Committee on Energy and the Committee on Commerce, Resources, Transportation and Infrastructure of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate, a report describing the findings, conclusions, and recommendations of the study under subsection (a).

(2) INCLUSIONS.—The report under paragraph (1) shall include—

(A) each identification, description, and estimate under subsection (a)(2);

(B) a description of any activity that is conducted or under consideration, or that could be considered, to produce additional hydroelectric power at an identified facility;

(C) a summary of actions taken by the Secretaries before the date on which the study was completed to produce additional hydroelectric power at an identified facility;

(D) a calculation of—

(i) the costs of installing, upgrading, modifying, or taking any other action relating to, equipment to produce additional hydroelectric power at an identified facility; and

(ii) the level of involvement of Federal power customers in the determination of the costs;

(E) a description of any benefit to be achieved by an installation, upgrade, modification, or other action under subparagraph (D), including a quantified estimate of any additional energy or capacity produced at an identified facility;

(F) a description of any action that is planned, is being carried out on the date on which the report is submitted, or might reasonably be considered to increase hydroelectric power production by replacing turbine runners, upgrading or rewinding generators, or constructing pumped storage facilities;

(G) a description of the effect of increased hydroelectric power production on—

(i) irrigation;

(ii) fish;

(iii) wildlife;

(iv) Indian land;

(v) river health;

(vi) water quality;

(vii) navigation;

(viii) recreation;

(ix) fishing; and

(x) flood control; and

(H) any additional recommendations of the Secretaries to increase hydroelectric power production, and reduce costs and improve efficiency, in accordance with applicable law, at federally owned or operated water regulation, storage, and conveyance facilities.

SEC. 1303. ALASKA NATURAL GAS PIPELINE.

Not later than 180 days after the date of enactment of this Act, and every 180 days thereafter until the Alaska natural gas pipeline commences operation, the Federal Energy Regulatory Commission shall submit to Congress a report describing—

(1) the progress made in licensing and constructing the pipeline; and

(2) any issue impeding that progress.

SEC. 1304. RENEWABLE ENERGY ON FEDERAL LAND.

(a) NATIONAL ACADEMY OF SCIENCES STUDY.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences shall—

(1) study the potential of developing wind, solar, and ocean energy resources (including tidal, wave, and thermal energy) on Federal land available for those uses under current law and the outer Continental Shelf;

(2) assess any Federal law (including regulations) relating to the development of those resources that is in existence on the date of enactment of this Act; and

(3) recommend statutory and regulatory mechanisms for developing those resources.

(b) SUBMISSION TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress the results of the study under subsection (a).

SEC. 1305. COAL BED METHANE STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of the Interior shall enter into an arrangement under which the National Academy of Sciences shall conduct a study on the effect of coalbed natural gas production on surface and ground water resources, including ground water aquifiers, in the States of Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

(2) MATTERS TO BE ADDRESSED.—The study shall address the effectiveness of—

(A) the management of coal bed methane produced water;

(B) the use of best management practices; and

(C) various production techniques for coal bed methane natural gas in minimizing impacts on water resources.

(b) DATA ANALYSIS.—The study shall analyze available hydrologic, geologic and water quality data, along with—

(1) production techniques, produced water management techniques, best management practices, and other factors that can mitigate effects of coal bed methane development;

(2) the costs associated with mitigation techniques;

(3) effects on surface or ground water resources, including drinking water, associated with surface or subsurface disposal of waters produced during extraction of coal bed methane; and

(4) any other significant effects on surface or ground water resources associated with production of coal-bed methane.

(c) RECOMMENDATIONS.—The study shall analyze the effectiveness of current mitigation practices of coal bed methane produced water handling in relation to 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 ground water resources associated with coal bed methane development.

(d) COMPLETION OF STUDY.—The National Academy of Sciences shall submit the findings and recommendations of the study to the Secretary of the Interior within 12 months after the date of enactment of this Act, and shall upon completion make the results of the study available to the public.

(e) REPORT TO CONGRESS.—The Secretary of the Interior shall report to the Congress within 6 months after receiving the results 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 coal bed methane production on surface and ground water resources.

SEC. 1306. BACKUP FUEL CAPABILITY STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the effect of obtaining and maintaining liquid and other fuel backup capability at—

(A) gas-fired power generation facilities; and

(B) other gas-fired industrial facilities.

(2) CONTENTS.—The study under paragraph (1) shall address—

(A) the costs and benefits of adding a different fuel capability to a power gas-fired power generating or industrial facility, taking into consideration regional differences;

(B) methods of the Federal Government and State governments to encourage gas-fired power generators and industries to develop the capability to power the facilities using a backup fuel;

(C) the effect on the supply and cost of natural gas of—

(i) a balanced portfolio of fuel choices in power generation and industrial applications; and

(ii) State regulations that permit agencies in the State to carry out policies that encourage the use of other backup fuels in gas-fired power generation; and

(D) changes required in the Clean Air Act (42 U.S.C. 7401 et seq.) to allow natural gas generators to add clean backup fuel capabilities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study under subsection (a), including recommendations regarding future activity of the Federal Government relating to backup fuel capability.

SEC. 1307. INDIAN LAND RIGHTS-OF-WAY.

(a) STUDY.—

(1) IN GENERAL.—The Secretary and the Secretary of the Interior (referred to in this section as the ''Secretaries'') shall jointly conduct a study of issues regarding energy rights-of-way on tribal land (as defined in section 2601 of the Energy Policy Act of 1992 (as amended by section 503)) (referred to in this section as ''tribal land'').

(2) CONSULTATION.—In conducting the study under paragraph (1), the Secretaries shall consult with Indian tribes, the energy industry, appropriate governmental entities, and affected businesses and consumers.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretaries shall submit to Congress a report on the findings of the study, including—

(1) an analysis of historic rates of compensation paid for energy rights-of-way on tribal land;

(2) recommendations for appropriate standards and procedures for determining fair and appropriate compensation to Indian tribes for grants, expansions, and renewals of energy rights-of-way on tribal land;

(3) an assessment of the tribal self-determination and sovereignty interests implicated by applications for the grant, expansion, or renewal of energy rights-of-way on tribal land; and

(4) an analysis of relevant national energy transportation policies relating to grants, expansions, and renewals of energy rights-of-way on tribal land.

SEC. 1308. REVIEW OF ENERGY POLICY ACT OF 1992 PROGRAMS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall complete a study to determine the effect that titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.) have had during the period beginning on the date of enactment of those titles and ending on the date on which the study begins on—

(1) the development of alternative fueled vehicle technology;

(2) the availability of that technology in the market; and

(3) the cost of alternative fueled vehicles.

(b) TOPICS.—In conducting the study under subsection (a), the Secretary shall identify—

(1) the number of alternative fueled vehicles acquired by fleets or covered persons required to acquire alternative fueled vehicles;

(2) the quantity, by type, of alternative fuel used in alternative fueled vehicles acquired by fleets or covered persons;

(3) the quantity of petroleum displaced by the use of alternative fuels in alternative fueled vehicles acquired by fleets or covered persons;

(4) the direct and indirect costs of compliance with requirements under titles III, IV, and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.), including—

(A) vehicle acquisition requirements imposed on fleets or covered persons;

(B) administrative and recordkeeping expenses;

(C) fuel and fuel infrastructure costs;

(D) associated training and employee expenses; and

(E) any other factors or expenses the Secretary determines to be necessary to compile reliable estimates of the overall costs and benefits of complying with programs under those titles for fleets, covered persons, and the national economy;

(5) the existence of obstacles preventing compliance with vehicle acquisition requirements and increased use of alternative fuel in alternative fueled vehicles acquired by fleets or covered persons; and

(6) the projected impact of amendments to the Energy Policy Act of 1992 made by this Act.

(c) REPORT.—On the date on which the study under subsection (a) is completed, the Secretary shall submit to Congress a report that—

(1) describes the results of the study; and

(2) includes any recommendations of the Secretary for legislative or administrative changes concerning the alternative fueled vehicle requirements under titles III, IV and V of the Energy Policy Act of 1992 (42 U.S.C. 13211 et seq.).

SEC. 1309. STUDY OF FEASIBILITY AND EFFECTS OF REDUCING USE OF FUEL FOR AUTOMOBILES.

(a) STUDY.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall conduct a study of the feasibility and effects of reducing, by a significant percentage, by model year 2012, the amount of fuel consumed by automobiles.

(2) INCLUSIONS.—The study under paragraph (1) shall include an examination of—

(A) the Federal policy of establishing average fuel economy standards for automobiles and requiring each automobile manufacturer to comply with average fuel economy standards that apply to the automobiles the manufacturer produces (including recommendations of alternatives to that policy);

(B) methods by which automobile manufacturers could contribute toward achieving the reduction described in paragraph (1);

(C) the potential of using fuel cell technology in motor vehicles to determine the extent to which fuel cell technology contributes to achieving the reduction described in paragraph (1); and

(D) the effects of the reduction described in paragraph (1) on—

(i) gasoline supplies;

(ii) the automobile industry, including sales of automobiles manufactured in the United States;

(iii) motor vehicle safety;

(iv) air quality; and

(v) the consumer price for light duty trucks typically purchased for agricultural purposes, including by providing estimates for price differences for the years 2008 through 2012, comparing—

(I) light duty truck fuel economy if no legislative changes are made to average fuel economy standards; to

(II) light duty truck fuel economy under the reduction described in paragraph (1).

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit to Congress a report on the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 1310. HYBRID DISTRIBUTED POWER SYSTEMS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall develop, and submit to Congress a report on, a strategy for a comprehensive research, development, demonstration, and commercial application program to develop hybrid distributed power systems that combine—

(1) 1 or more renewable electric power generation technologies of 10 megawatts or less located near the site of electric energy use; and

(2) nonintermittent electric power generation technologies suitable for use in a distributed power system.

SEC. 1311. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.

Not later than 2 years after the date of enactment of this section, the Secretary shall transmit to Congress a report that—

(1) identifies any policies or procedures of a contractor operating a National Laboratory or single-purpose research facility that create disincentives to the temporary or permanent transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities; and

(2) provides recommendations for improving interlaboratory exchange of scientific and technical personnel.

SEC. 1312. NATIONAL ACADEMY OF SCIENCES REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall enter into an arrangement with the National Academy of Sciences for the Academy to—

(1) conduct a study on—

(A) the obstacles to accelerating the research, development, demonstration, and commercial application cycle for energy technology; and

(B) the adequacy of Department policies and procedures for, and oversight of, technology transfer-related disputes between contractors of the Department and the private sector; and

(2) report to Congress on recommendations developed as a result of the study.

SEC. 1313. REPORT ON RESEARCH AND DEVELOPMENT PROGRAM EVALUATION METHODOLOGIES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into appropriate arrangements with the National Academy of Sciences to investigate and report on the scientific and technical merits of any evaluation methodology currently in use or proposed for use in relation to the scientific and technical programs of the Department by the Secretary or other Federal official.

(b) REPORT.—Not later than 180 days after receiving the report of the National Academy of Sciences, the Secretary shall submit

to Congress a report, along with any other views or plans of the Secretary with respect to the future use of the evaluation methodology.

SEC. 1314. TRANSMISSION SYSTEM MONITORING STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Chairperson of the Federal Energy Regulatory Commission shall conduct a study, and submit to Congress a report, on any action the Secretary determines to be necessary to establish a system that makes available to all transmission system owners and regional transmission organizations in the Eastern and Western Interconnections real-time information on the functional status of all transmission lines within those Interconnections.

(b) INCLUSIONS.—The study under this section shall include—

(1) an assessment of any technical method of implementing the information transmission system described in subsection (a); and

(2) an identification of any action the Secretary and the Chairperson shall carry out to implement the information transmission system.

SEC. 1315. INTERAGENCY 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''), consisting of 5 members—

(1) 1 of whom shall be an employee of the Department of Justice, to be appointed by the Attorney General of the United States;

(2) 1 of whom shall be an employee of the Federal Energy Regulatory Commission, to be appointed by the Chairperson of that Commission;

(3) 1 of whom shall be an employee of the Federal Trade Commission, to be appointed by the Chairperson of that Commission;

(4) 1 of whom shall be an employee of the Department, to be appointed by the Secretary; and

(5) 1 of whom shall be an employee of the Rural Utilities Service, to be appointed by the Secretary of Agriculture.

(b) STUDY AND REPORT.—

(1) STUDY.—The task force shall conduct a study and analysis of competition within the wholesale and retail market for electric energy in the United States.

(2) REPORT.—

(A) FINAL REPORT.—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress a final report on the findings of the task force under paragraph (1).

(B) PUBLIC COMMENT.—Not later than the date that is 60 days before a final report is submitted to Congress under subparagraph (A), the task force shall—

(i) publish in the Federal Register a draft of the report; and

(ii) provide an opportunity for public comment on the report.

(c) CONSULTATION.—In conducting the study under subsection (b), the task force shall consult with and solicit comments from any advisory entity of the task force, the States, representatives of the electric power industry, and the public.

SEC. 1316. STUDY ON THE BENEFITS OF ECONOMIC DISPATCH.

(a) DEFINITION OF ECONOMIC DISPATCH.—In this section, the term ''economic dispatch'' means the operation of a generation facility to produce energy at the lowest cost in order to reliably serve consumers, taking into consideration any operational limit of a generation or transmission facility.

(b) STUDY.—The Secretary, in coordination and consultation with the States, shall conduct a study of—

(1) the procedures currently used by electric utilities to carry out economic dispatch;

(2) possible revisions to those procedures to improve the ability of nonutility generation resources to offer the output of the resources for sale for inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers, nationally and in each State, of revising economic dispatch procedures to improve the ability of nonutility generation resources to offer the output of the resources for inclusion in economic dispatch.

(c) REPORT TO CONGRESS AND THE STATES.—Not later than 90 days after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress and each State a report describing the results of the study under subsection (b), including recommendations of the Secretary for such legislative and administrative actions as the Secretary determines to be appropriate.

SEC. 1317. STUDY OF RAPID ELECTRICAL GRID RESTORATION.

(a) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of the benefits of using mobile transformers and mobile substations to rapidly restore electrical service to areas subjected to blackouts as a result of—

(A) equipment failure;

(B) natural disasters;

(C) acts of terrorism; or

(D) war.

(2) CONTENTS.—The study under paragraph (1) shall contain an analysis of—

(A) the feasibility of using mobile transformers and mobile substations to reduce dependence on foreign entities for key elements of the electrical grid system of the United States;

(B) the feasibility of using mobile transformers and mobile substations to rapidly restore electrical power to—

(i) military bases;

(ii) the Federal Government;

(iii) communications industries;

(iv) first responders; and

(v) other critical infrastructures, as determined by the Secretary;

(C) the quantity of mobile transformers and mobile substations necessary—

(i) to eliminate dependence on foreign sources for key electrical grid components in the United States;

(ii) to rapidly deploy technology to fully restore full electrical service to prioritized Governmental functions; and

(iii) to identify manufacturing sources in existence on the date of enactment of this Act that have previously manufactured specialized mobile transformer or mobile substation products for Federal agencies.

(b) REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (a).

(2) INCLUSION.—The report shall include a description of the results of the analysis under subsection (a)(2).

SEC. 1318. STUDY OF DISTRIBUTED GENERATION.

(a) STUDY.—

(1) IN GENERAL.—

(A) POTENTIAL BENEFITS.—The Secretary, in consultation with the Federal Power Commission, shall conduct a study of the potential benefits of cogeneration and small power production.

(B) RECIPIENTS.—The benefits described in subparagraph (A) include benefits that are received directly or indirectly by—

(i) an electricity distribution or transmission service provider;

(ii) other customers served by an electricity distribution or transmission service provider; and

(iii) the general public in the area served by the public utility in which the cogenerator or small power producer is located.

(2) INCLUSIONS.—The study shall include an analysis of—

(A) the potential benefits of—

(i) increased system reliability;

(ii) improved power quality;

(iii) the provision of ancillary services;

(iv) reduction of peak power requirements through onsite generation;

(v) the provision of reactive power or voltampere reactives;

(vi) an emergency supply of power;

(vii) offsets to investments in generation, transmission, or distribution facilities that would otherwise be recovered through rates;

(viii) diminished land use effects and right-of-way acquisition costs; and

(ix) reducing the vulnerability of a system to terrorism; and

(B) any rate-related issue that may impede or otherwise discourage the expansion of cogeneration and small power production facilities, including a review of whether rates, rules, or other requirements imposed on the facilities are comparable to rates imposed on customers of the same class that do not have cogeneration or small power production.

(3) VALUATION OF BENEFITS.—In carrying out the study, the Secretary shall determine an appropriate method of valuing potential benefits under varying circumstances for individual cogeneration or small power production units.

(b) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) complete the study;

(2) provide an opportunity for public comment on the results of the study; and

(3) submit to the President and Congress a report describing—

(A) the results of the study; and

(B) information relating to the public comments received under paragraph (2).

(c) PUBLICATION.—After submission of the report under subsection (b) to the President and Congress, the Secretary shall publish the report.

SEC. 1319. STUDY ON INVENTORY OF PETROLEUM AND NATURAL GAS STORAGE.

(a) DEFINITION OF PETROLEUM.—In this section, the term ''petroleum'' means—

(1) crude oil;

(2) motor gasoline;

(3) jet fuel;

(4) distillates; and

(5) propane.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall conduct a study of petroleum and natural gas storage capacity and operational inventory levels, nationwide and by major geographical regions.

(2) INCLUSIONS.—The study shall include an analysis of, for petroleum and natural gas—

(A) historical normal ranges of inventory levels;

(B) historical and projected storage capacity trends;

(C) estimated operation inventory levels below which outages, delivery slowdown, rationing, interruptions in service, or other indicators of shortage begin to appear;

(D) explanations for inventory levels dropping below normal ranges; and

(E) the ability of industry to meet the demand of the United States for petroleum and natural gas without shortages or price spikes, if inventory levels are below normal ranges.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study, including—

(1) the findings of the study; and

(2) any recommendations of the Secretary for preventing future supply shortages.

SEC. 1320. NATURAL GAS SUPPLY SHORTAGE REPORT.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report on natural gas supplies and demand.

(b) PURPOSE.—The purpose of the report under subsection (a) is to develop recommendations for achieving a balance between natural gas supply and demand in order to—

(1) provide residential consumers with natural gas at reasonable and stable prices;

(2) accommodate long-term maintenance and growth of domestic natural gas-dependent industrial, manufacturing, and commercial enterprises;

(3) facilitate the attainment of national ambient air quality standards under the Clean Air Act (43 U.S.C. 7401 et seq.);

(4) achieve continued progress in reducing the emissions associated with electric power generation; and

(5) support the development of the preliminary phases of hydrogen-based energy technologies.

(c) COMPREHENSIVE ANALYSIS.—The report shall include a comprehensive analysis of, for the period beginning on January 1, 2004, and ending on December 31, 2015, natural gas supply and demand in the United States, including—

(1) estimates of annual domestic demand for natural gas, taking into consideration the effect of Federal policies and actions that are likely to increase or decrease the demand for natural gas;

(2) projections of annual natural gas supplies, from domestic and foreign sources, under Federal policies in existence on the date of enactment of this Act;

(3) an identification of estimated natural gas supplies that are not available under those Federal policies;

(4) scenarios for decreasing natural gas demand and increasing natural gas supplies that compare the relative economic and environmental impacts of Federal policies that—

(A) encourage or require the use of natural gas to meet air quality, carbon dioxide emission reduction, or energy security goals;

(B) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(C) support technologies to develop alternative sources of natural gas and synthetic gas, including coal gasification technologies;

(D) encourage or require the use of energy conservation and demand side management practices; and

(E) affect access to domestic natural gas supplies; and

(5) recommendations for Federal actions to achieve the purposes described in subsection (b), including recommendations that—

(A) encourage or require the use of energy sources other than natural gas, including coal, nuclear, and renewable sources;

(B) encourage or require the use of energy conservation or demand side management practices;

(C) support technologies for the development of alternative sources of natural gas and synthetic gas, including coal gasification technologies; and

(D) would improve access to domestic natural gas supplies.

(d) CONSULTATION.—In preparing the report under subsection (a), the Secretary shall consult with—

(1) experts in natural gas supply and demand; and

(2) representatives of—

(A) State and local governments;

(B) tribal organizations; and

(C) consumer and other organizations.

(e) HEARINGS.—In preparing the report under subsection (a), the Secretary may hold public hearings and provide other opportunities for public comment, as the Secretary considers appropriate.

SEC. 1321. SPLIT-ESTATE FEDERAL OIL AND GAS LEASING AND DEVELOPMENT PRACTICES.

(a) REVIEW.—

(1) IN GENERAL.—In consultation with affected private surface owners, representatives of the oil and gas industry, and other interested parties, the Secretary of the Interior shall undertake a review of the current policies and practices with respect to management of Federal subsurface oil and gas development activities and the effects of those activities on the privately owned surface.

(2) INCLUSIONS.—The review shall include—

(A) a comparison of the rights and responsibilities under existing mineral and land law for the owner of a Federal mineral lease, the private surface owners and the Department;

(B) a comparison of the surface owner consent provisions in section 714 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1304) concerning surface mining of Federal coal deposits and the surface owner consent provisions for oil and gas development, including coalbed methane production;

(C) an analysis and comparison of existing State laws addressing surface owner protection on split estates in which the surface estate is privately held and the subsurface estate is federally owned, or other split estate situations; and

(D) recommendations for administrative or legislative action necessary to facilitate reasonable access for Federal oil and gas activities while addressing surface owner concerns and minimizing impacts to private surface.

(b) REPORT.—The Secretary of the Interior shall report the results of such review to Congress not later than 180 days after the date of enactment of this Act.

SEC. 1322. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.

(a) REVIEW.—The Secretary of the Interior shall review Federal and State laws in existence on the date of enactment of this Act in order to resolve any conflict relating to the Powder River Basin in Wyoming and Montana between—

(1) the development of Federal coal; and

(2) the development of Federal and non-Federal coalbed methane.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that—

(1) describes methods of resolving a conflict described in subsection (a); and

(2) identifies a method preferred by the Secretary of the Interior, including proposed legislative language, if any, required to implement the method.

SEC. 1323. STUDY OF ENERGY EFFICIENCY STANDARDS.

(a) STUDY.—The Secretary shall enter into a contract with the National Academy of Sciences under which the National Academy of Sciences, not later than 1 year after the date of enactment of this Act, shall conduct a study of whether the goals of energy efficiency standards are best served—

(1) by measuring energy consumed, and efficiency improvements, at the site of energy consumption; or

(2) through the full fuel cycle, beginning at the source of energy production.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the study under subsection (a).

SEC. 1324. TELECOMMUTING STUDY.

(a) DEFINITIONS.—In this section:

(1) FEDERAL EMPLOYEE.—The term ''Federal employee'' has the meaning given the term ''employee'' in section 2105 of title 5, United States Code.

(2) TELECOMMUTING.—The term 'telecommuting'' means the performance of work functions using communications technologies, which eliminates or substantially reduces the need to commute to and from traditional worksites.

(b) STUDY REQUIRED.—The Secretary, in consultation with the Chairperson of the Federal Energy Regulatory Commission, the Director of the Office of Personnel Management, the Administrator of General Services, and the Administrator of National Telecommunications and Information Administration, shall conduct a study of the energy conservation implications of the widespread adoption of telecommuting by Federal employees in the United States.

(c) INCLUSIONS.—The study under subsection (b) shall include an analysis of the following subjects in relation to the energy saving potential of telecommuting by Federal employees:

(1) Reductions of energy use and energy costs in commuting and regular office heating, cooling, and other operations.

(2) Other energy reductions accomplished by telecommuting.

(3) Existing regulatory barriers that hamper telecommuting, including barriers to broadband telecommunications services deployment.

(4) Collateral benefits to the environment, family life, and other values.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the President and Congress a report on the study under subsection (b), including a description of the results of the analysis of each of subject referred to in subsection (c).

SEC. 1325. OIL BYPASS FILTRATION TECHNOLOGY.

The Secretary and the Administrator of the Environmental Protection Agency shall—

(1) conduct a joint study of the benefits of oil bypass filtration technology in—

(A) reducing demand for oil; and

(B) protecting the environment;

(2) evaluate various products and manufacturers with respect to oil bypass filtration technology; and

(3) after conducting the evaluation under paragraph (2), examine the feasibility of using oil bypass filtration technology in Federal motor vehicle fleets.

SEC. 1326. TOTAL INTEGRATED THERMAL SYSTEMS.

The Secretary shall—

(1) conduct a study of the benefits of total integrated thermal systems in—

(A) reducing demand for oil; and

(B) protecting the environment; and

(2) examine the feasibility of using total integrated thermal systems in Federal motor vehicle fleets (including the motor vehicle fleet of the Department of Defense).

SEC. 1327. UNIVERSITY COLLABORATION.

(a) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report that examines the feasibility of promoting collaborations between large institutions of higher education and small institutions of

higher education (as determined by the Secretary) through grants, contracts, and cooperative agreements made by the Secretary for energy projects.

(b) CONSIDERATION.—In preparing the report under subsection (a), the Secretary shall take into consideration the feasibility of providing incentives for including small institutions of higher education (including institutions that primarily serve minorities), as determined by the Secretary, in—

(1) energy research grants;

(2) contracts; and

(3) cooperative agreements.

SEC. 1328. HYDROGEN PARTICIPATION STUDY.

Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report evaluating methodologies to ensure the widest participation practicable in setting goals and milestones under the hydrogen program of the Department, including international participants.

TITLE XIV—INCENTIVES FOR INNOVATIVE TECHNOLOGIES

SEC. 1401. DEFINITIONS.

In this title:

(1) COMMERCIAL TECHNOLOGY.—

(A) IN GENERAL.—The term ''commercial technology'' means a technology in general use in the commercial marketplace.

(B) INCLUSIONS.—The term ''commercial technology'' does not include a technology solely by use of the technology in a demonstration project funded by the Department.

(2) COST.—The term ''cost'' has the meaning given the term ''cost of a loan guarantee'' within the meaning of section 502(5)(C) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)(C)).

(3) ELIGIBLE PROJECT.—The term ''eligible project'' means a project described in section 1403.

(4) GUARANTEE.—

(A) IN GENERAL.—The term ''guarantee'' has the meaning given the term ''loan guarantee'' in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(B) INCLUSION.—The term ''guarantee'' includes a loan guarantee commitment (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)).

(5) OBLIGATION.—The term ''obligation'' means the loan or other debt obligation that is guaranteed under this section.

SEC. 1402. TERMS AND CONDITIONS.

(a) IN GENERAL.—Except for division C of Public Law 108–324, the Secretary shall make guarantees under this or any other Act for projects on such terms and conditions as the Secretary determines, after consultation with the Secretary of the Treasury, only in accordance with this section.

(b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—No guarantee shall be made unless—

(1) an appropriation for the cost has been made; or

(2) the Secretary has received from the borrower a payment in full for the cost of the obligation and deposited the payment into the Treasury.

(c) AMOUNT.—Unless otherwise provided by law, a guarantee by the Secretary shall not exceed an amount equal to 80 percent of the project cost of the facility that is the subject of the guarantee, as estimated at the time at which the guarantee is issued.

(d) REPAYMENT.—

(1) IN GENERAL.—No guarantee shall be made unless the Secretary determines that there is reasonable prospect of repayment of the principal and interest on the obligation by the borrower.

(2) AMOUNT.—No guarantee shall be made unless the Secretary determines that the amount of the obligation (when combined with amounts available to the borrower from other sources) will be sufficient to carry out the project.

(3) SUBORDINATION.—The obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(e) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(f) TERM.—The term of an obligation shall require full repayment over a period not to exceed the lesser of—

(1) 30 years; or

(2) 90 percent of the projected useful life of the physical asset to be financed by the obligation (as determined by the Secretary).

(g) DEFAULTS.—

(1) PAYMENT BY SECRETARY.—

(A) IN GENERAL.—If a borrower defaults on the obligation (as defined in regulations promulgated by the Secretary and specified in the guarantee contract), the holder of the guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(B) PAYMENT REQUIRED.—Within such period as may be specified in the guarantee or related agreements, the Secretary shall pay to the holder of the guarantee the unpaid interest on, and unpaid principal of the obligation as to which the borrower has defaulted, unless the Secretary finds that there was no default by the borrower in the payment of interest or principal or that the default has been remedied.

(C) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the borrower which may be agreed upon by the parties to the obligation and approved by the Secretary.

(2) SUBROGATION.—

(A) IN GENERAL.—If the Secretary makes a payment under paragraph (1), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the guarantee or related agreements including, where appropriate, the authority (notwithstanding any other provision of law) to—

(i) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to such guarantee or related agreements; or

(ii) permit the borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines this to be in the public interest.

(B) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a guarantee or related agreements, shall be superior to the rights of any other person with respect to the property.

(C) TERMS AND CONDITIONS.—A guarantee agreement shall include such detailed terms and conditions as the Secretary determines appropriate to—

(i) protect the interests of the United States in the case of default; and

(ii) have available all the patents and technology necessary for any person selected, including the Secretary, to complete and operate the project.

(3) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the borrower, from funds appropriated for that purpose, the principal and interest payments which become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(A)(i) the borrower is unable to meet the payments and is not in default;

(ii) it is in the public interest to permit the borrower to continue to pursue the purposes of the project; and

(iii) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(B) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the borrower is obligated to pay under the agreement being guaranteed; and

(C) the borrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(4) ACTION BY ATTORNEY GENERAL.—

(A) NOTIFICATION.—If the borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(B) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(i) such assets of the defaulting borrower as are associated with the obligation; or

(ii) any other security pledged to secure the obligation.

(h) FEES.—

(1) IN GENERAL.—The Secretary shall charge and collect fees for guarantees in amounts the Secretary determines are sufficient to cover applicable administrative expenses.

(2) AVAILABILITY.—Fees collected under this subsection shall—

(A) be deposited by the Secretary into the Treasury; and

(B) remain available until expended, subject to such other conditions as are contained in annual appropriations Acts.

(i) RECORDS; AUDITS.—

(1) IN GENERAL.—A recipient of a guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(2) ACCESS.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

(j) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

SEC. 1403. ELIGIBLE PROJECTS.

(a) IN GENERAL.—The Secretary may make guarantees under this section only for projects that—

(1) avoid, reduce, or sequester air pollutants or anthropogenic emissions of greenhouse gases; and

(2) employ new or significantly improved technologies as compared to commercial technologies in service in the United States at the time the guarantee is issued.

(b) CATEGORIES.—Projects from the following categories shall be eligible for a guarantee under this section:

(1) Renewable energy systems.

(2) Advanced fossil energy technology (including coal gasification meeting the criteria in subsection (d)).

(3) Hydrogen fuel cell technology for residential, industrial or –transportation applications.

(4) Advanced nuclear energy facilities.

(5) Carbon capture and sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon.

(6) Efficient electrical generation, transmission, and distribution –technologies.

(7) Efficient end-use energy technologies.

(8) Notwithstanding subsection (a)(2), production facilities for fuel efficient vehicles.

(c) GASIFICATION PROJECTS.—The Secretary may make guarantees for the following gasification projects:

(1) INTEGRATED GASIFICATION COMBINED CYCLE PROJECTS.—Integrated gasification combined cycle plants meeting the emission levels under subsection (d), including—

(A) projects for the generation of electricity—

(i) for which, during the term of the guarantee—

(I) coal, biomass, petroleum coke, or a combination of coal, biomass, and petroleum coke will account for at least 65 percent of annual heat input; and

(II) electricity will account for at least 65 percent of net useful annual energy output;

(ii) that have a design that is determined by the Secretary to be capable of accommodating the equipment likely to be necessary to capture the carbon dioxide that would otherwise be emitted in flue gas from the plant;

(iii) that have an assured revenue stream that covers project capital and operating costs (including servicing all debt obligations covered by the guarantee) that is approved by the Secretary and the relevant State public utility commission; and

(iv) on which construction commences not later than the date that is 3 years after the date of the issuance of the guarantee;

(B) a project to produce energy from coal (of not more than 13,000 Btu/lb and mined in the western United States) using appropriate advanced integrated gasification combined cycle technology that minimizes and offers the potential to sequester carbon dioxide emissions and that—

(i) may include repowering of existing facilities;

(ii) may be built in stages;

(iii) shall have a combined output of at least 100 megawatts;

(iv) shall be located in a western State at an altitude greater than 4,000 feet; and

(v) shall demonstrate the ability to use coal with an energy content of not more than 9,000 Btu/lb;

(C) a project located in a taconite-producing region of the United States that is entitled under the law of the State in which the plant is located to enter into a long-term contract approved by a State public utility commission to sell at least 450 megawatts of output to a utility; and

(D) a facility that—

(i) generates separate hydrogen-rich (at least 75 percent hydrogen by volume) and carbon monoxide-rich (at least 75 percent carbon monoxide by volume) product streams from the gasification of coal; and

(ii) uses those separate streams to facilitate the production of ultra clean premium fuels through the Fischer-Tropsch process.

(2) INDUSTRIAL GASIFICATION PROJECTS.—Facilities that gasify coal, biomass, or petroleum coke in any combination to produce synthesis gas for use as a fuel or feedstock and for which electricity accounts for less than 65 percent of the useful energy output of the facility.

(d) EMISSION LEVELS.—In addition to any other applicable Federal or State emission limitation requirements, a project shall attain at least—

(1) total sulfur dioxide emissions in flue gas from the project that do not exceed 0.05 lb/mmBTU;

(2) a 90-percent removal rate (including any fuel pretreatment) of mercury from the coal-derived gas, and any other fuel, combusted by the project;

(3) total nitrogen oxide emissions in the flue gas from the project that do not exceed 0.08 lb/mmBTU; and

(4) total particulate emissions in the flue gas from the project that do not exceed 0.01 lb/mmBTU.

(e) QUALIFICATION OF FACILITIES RECEIVING TAX CREDITS.—A project that receives tax credits for clean coal technology shall not be disqualified from receiving a guarantee under this title.

SEC. 1404. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to provide the cost of guarantees under this title.

SA 776. Mr. CHAMBLISS submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 768, after line 20, add the following:

TITLE XV—ARABIA MOUNTAIN NATIONAL HERITAGE AREA

SEC. 1501. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) SHORT TITLE.—This section may be cited as the ''Arabia Mountain National Heritage Area Act''.

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds the following:

(A) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(B) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(C) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(i) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(ii) includes federally-protected plant species.

(D) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(E) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(F) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(G) The community of Klondike is eligible for designation as a National Historic District.

(H) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(2) PURPOSES.—The purposes of this section are as follows:

(A) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(B) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

(c) DEFINITIONS.—In this section:

(1) HERITAGE AREA.—The term ''heritage area'' means the Arabia Mountain National Heritage Area established by subsection (d)(1).

(2) MANAGEMENT ENTITY.—The term ''management entity'' means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term ''management plan'' means the management plan for the heritage area developed under subsection (f).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(5) STATE.—The term ''State'' means the State of Georgia.

(d) ARABIA MOUNTAIN NATIONAL HERITAGE AREA.—

(1) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(2) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled ''Arabia Mountain National Heritage Area'', numbered AMNHA–80,000, and dated October 2003.

(3) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(4) MANAGEMENT ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the management entity for the heritage area.

(e) AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.—

(1) AUTHORITIES.—For purposes of developing and implementing the management plan, the management entity may—

(A) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(B) hire and compensate staff; and

(C) enter into contracts for goods and services.

(2) DUTIES.—

(A) MANAGEMENT PLAN.—

(i) IN GENERAL.—The management entity shall develop and submit to the Secretary the management plan.

(ii) CONSIDERATIONS.—In developing and implementing the management plan, the management entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(B) PRIORITIES.—The management entity shall give priority to implementing actions described in the management plan, including the following:

(i) Assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(ii) Encouraging local governments to adopt land use policies consistent with the management of the heritage area and the goals of the management plan.

(C) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(D) ANNUAL REPORT.—For any year in which Federal funds have been made available under this section, the management entity shall submit to the Secretary an annual report that describes the following:

(i) The accomplishments of the management entity.

(ii) The expenses and income of the management entity.

(E) AUDIT.—The management entity shall—

(i) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(ii) require, with respect to all agreements authorizing expenditure of Federal funds by

other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(3) USE OF FEDERAL FUNDS.—

(A) IN GENERAL.—The management entity shall not use Federal funds made available under this section to acquire real property or an interest in real property.

(B) OTHER SOURCES.—Nothing in this section precludes the management entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

(f) MANAGEMENT PLAN.—

(1) IN GENERAL.—The management entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(2) BASIS.—The management plan shall be based on the preferred concept in the document entitled ''Arabia Mountain National Heritage Area Feasibility Study'', dated February 28, 2001.

(3) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(A) take into consideration State and local plans; and

(B) involve residents, public agencies, and private organizations in the heritage area.

(4) REQUIREMENTS.—The management plan shall include the following:

(A) An inventory of the resources in the heritage area, including—

(i) a list of property in the heritage area that—

(I) relates to the purposes of the heritage area; and

(II) should be preserved, restored, managed, or maintained because of the significance of the property; and

(ii) an assessment of cultural landscapes within the heritage area.

(B) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this section.

(C) An interpretation plan for the heritage area.

(D) A program for implementation of the management plan that includes—

(i) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(ii) the identification of existing and potential sources of funding for implementing the plan.

(E) A description and evaluation of the management entity, including the membership and organizational structure of the management entity.

(5) SUBMISSION TO SECRETARY FOR APPROVAL.—

(A) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the management entity shall submit the management plan to the Secretary for approval.

(B) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in subparagraph (A), the Secretary shall not provide any additional funding under this section until such date as a management plan for the heritage area is submitted to the Secretary.

(6) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(A) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under paragraph (5), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(B) ACTION FOLLOWING DISAPPROVAL.—

(i) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (5), the Secretary shall—

(I) advise the management entity in writing of the reasons for the disapproval;

(II) make recommendations for revisions to the management plan; and

(III) allow the management entity to submit to the Secretary revisions to the management plan.

(ii) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under clause (i)(III), the Secretary shall approve or disapprove the revision.

(7) REVISION OF MANAGEMENT PLAN.—

(A) IN GENERAL.—After approval by the Secretary of a management plan, the management entity shall periodically—

(i) review the management plan; and

(ii) submit to the Secretary, for review and approval by the Secretary, the recommendations of the management entity for any revisions to the management plan that the management entity considers to be appropriate.

(B) EXPENDITURE OF FUNDS.—No funds made available under this section shall be used to implement any revision proposed by the management entity under subparagraph (A)(ii) until the Secretary approves the revision.

(g) TECHNICAL AND FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—At the request of the management entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(2) PRIORITY.—In providing assistance under paragraph (1), the Secretary shall give priority to actions that facilitate—

(A) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(B) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

(h) EFFECT ON CERTAIN AUTHORITY.—

(1) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this section—

(A) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in subsection (d)(2) but for the establishment of the heritage area by subsection (d)(1); or

(B) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in subsection (d)(2) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by subsection (d)(1).

(2) LAND USE REGULATION.—Nothing in this section—

(A) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(B) grants powers of zoning or land use to the management entity.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to carry out this section $10,000,000, to remain available until expended, of which not more than $1,000,000 may be used in any fiscal year.

(2) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this section shall not exceed 50 percent.

(j) TERMINATION OF AUTHORITY.—The authority of the Secretary to make any grant or provide any assistance under this section shall terminate on September 30, 2016.

SA 777. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 606, to amend the Clean Air Act to eliminate methyl tertiary butyl ether from the United States fuel supply, to increase production and use of renewable fuel, and to increase the Nation's energy independence, and for other purposes; which was ordered to lie on the table; as follows:

On page 24, between lines 5 and 6, insert the following:

''(1) ALTERNATIVE FUEL.—The term 'alternative fuel' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

''(2) BIOMASS-DERIVED LIQUID ALTERNATIVE FUEL.—

''(A) IN GENERAL.—The term 'biomass-derived liquid alternative fuel' means an alternative fuel, or a blending component for alternate fuel, that—

''(i) is derived from cellulosic biomass feedstocks; and

''(ii) remains substantially in a liquid phase at room temperature and atmospheric pressure.

''(B) CERTAIN LIQUID ALTERNATIVE FUELS.—For any liquid alternative fuel that contains a component that is not derived from a cellulosic biomass feedstock, only the portion of the fuel that is derived from a cellulosic biomass feedstock shall be considered to be a biomass-derived liquid alternative fuel.

''(3) CELLULOSIC BIOMASS FEEDSTOCK.—The term 'cellulosic biomass feedstock' means—

''(A) dedicated energy crops and trees;

''(B) wood and wood residues;

''(C) plants;

''(D) grasses;

''(E) agricultural residues;

''(F) fibers;

''(G) animal wastes and other waste materials; and

''(H) municipal solid waste.

On page 24, line 6, strike ''(1)'' and insert ''(4)''.

On page 24, line 10, strike ''(2)'' and insert ''(5)''.

On page 24, line 13, strike ''(3)'' and insert ''(6)''.

On page 31, strike lines 7 and 8 and insert the following:

''(f) CONVERSION ASSISTANCE FOR CELLULOSIC BIOMASS ETHANOL AND BIOMASS-DERIVED LIQUID ALTERNATIVE FUELS.—

On page 31, line 11, insert ''and biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 31, line 14, insert ''and biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 31, beginning on line 19, strike ''derived from agricultural residues or municipal solid waste''.

SA 778. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

Strike subsection (a) of section 204 and insert the following:

(a) DEFINITIONS.—

(1) 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 a cellulosic biomass feedstock.

(2) CELLULOSIC BIOMASS-DERIVED LIQUID ALTERNATIVE FUEL.—

(A) IN GENERAL.—The term ''cellulosic biomass-derived liquid alternative fuel'' means an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)), or a blending component for alternate fuel, that—

(i) is derived from cellulosic biomass feedstock or waste; and

(ii) remains substantially in a liquid phase at room temperature and atmospheric pressure.

(B) CERTAIN LIQUID ALTERNATIVE FUELS.—For any liquid alternative fuel that contains a component that is not derived from a cellulosic biomass feedstock or waste, only the portion of the fuel that is derived from a cellulosic biomass feedstock shall be considered to be a biomass-derived liquid alternative fuel.

(3) CELLULOSIC BIOMASS FEEDSTOCK.—The term ''cellulosic biomass feedstock'' means—

(A) dedicated energy crops and trees;

(B) wood and wood residues;

(C) plants;

(D) grasses;

(E) agricultural residues;

(F) fibers;

(G) animal wastes and other waste materials; and

(H) municipal solid waste.

(4) RENEWABLE FUEL.—

(A) IN GENERAL.—The term ''renewable fuel'' means motor vehicle fuel that—

(i)(I) is produced from grain, starch, oilseeds, sugar cane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

(II) 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.

(B) INCLUSIONS.—The term ''renewable fuel'' includes—

(i) cellulosic biomass ethanol;

(ii) waste derived ethanol;

(iii) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f)); and

(iv) any blending components derived from renewable fuel, except that only the renewable fuel portion of the blending component shall be considered part of the applicable volume under the renewable fuel program established by this section.

(5) SMALL REFINERY.—The term ''small refinery'' means a refinery for which average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

(6) WASTE.—The term ''waste'' means—

(A) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

(B) municipal solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

In section 204(j), insert ''or cellulosic biomass-derived liquid alternative fuels'' after ''ethanol'' each place it appears.

Strike subparagraph (A) of section 209(c)(1) and insert the following:

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol and cellulosic biomass-derived liquid alternative fuel (as defined in section 204(a)); and

SA 779. Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) proposed an amendment to the bill H.R. 6, Reserved; as follows:

Beginning on page 135, strike line 10 and all that follows through page 159, line 23, and insert the following:

Subtitle B—Reliable Fuels

SEC. 205. RENEWABLE CONTENT OF GASOLINE.

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (r); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, sugarcane, sugar beets, sugar components, tobacco, potatoes, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes—

''(I) cellulosic biomass ethanol; and

''(II) biodiesel (as defined in section 312(f) of the Energy Policy Act of 1992 (42 U.S.C. 13220(f))).

''(C) SMALL REFINERY.—The term 'small refinery' means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) REGULATIONS.—

''(i) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous States or territories), on an annual average basis, contains the applicable volume of renewable fuel determined in accordance with subparagraph (B).

''(ii) NONCONTIGUOUS STATE OPT-IN.—

''(I) IN GENERAL.—On the petition of a noncontiguous State or territory, the Administrator may allow the renewable fuel program established under this subsection to apply in the noncontiguous State or territory at the same time or any time after the Administrator promulgates regulations under this subparagraph.

''(II) OTHER ACTIONS.—In carrying out this clause, the Administrator may—

''(aa) issue or revise regulations under this paragraph;

''(bb) establish applicable percentages under paragraph (3);

''(cc) provide for the generation of credits under paragraph (5); and

''(dd) take such other actions as are necessary to allow for the application of the renewable fuels program in a noncontiguous State or territory.

''(iii) PROVISIONS OF REGULATIONS.—Regardless of the date of promulgation, the regulations promulgated under clause (i)—

''(I) shall contain compliance provisions applicable to refineries, blenders, distributors, and importers, as appropriate, to ensure that the requirements of this paragraph are met; but

''(II) shall not—

''(aa) restrict geographic areas in which renewable fuel may be used; or

''(bb) impose any per-gallon obligation for the use of renewable fuel.

''(iv) REQUIREMENT IN CASE OF FAILURE TO PROMULGATE REGULATIONS.—If the Administrator does not promulgate regulations under clause (i), the percentage of renewable fuel in gasoline sold or dispensed to consumers in the United States, on a volume basis, shall be 3.2 percent for calendar year 2006.

''(B) APPLICABLE VOLUME.—

''(i) CALENDAR YEARS 2006 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2006 through 2012 shall be determined in accordance with the following table:

''Calendar year:	Applicable volume of renewable fuel (in billions of gallons):
2006	4.0
2007	4.7
2008	5.4
2009	6.1
2010	6.8
2011	7.4
2012	8.0.

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—Subject to clauses (iii) and (iv), for the purposes of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be determined by the Administrator, in coordination with the Secretary of Agriculture and the Secretary of Energy, based on a review of the implementation of the program during calendar years 2006 through 2012, including a review of—

''(I) the impact of the use of renewable fuels on the environment, air quality, energy security, job creation, and rural economic development; and

''(II) the expected annual rate of future production of renewable fuels, including cellulosic ethanol.

''(iii) MINIMUM QUANTITY DERIVED FROM CELLULOSIC BIOMASS.—For calendar year 2013 and each calendar year thereafter—

''(I) the applicable volume referred to in clause (ii) shall contain a minimum of 250,000,000 gallons that are derived from cellulosic biomass; and

''(II) the 2.5-to-1 ratio referred to in paragraph (4) shall not apply.

''(iv) MINIMUM APPLICABLE VOLUME.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be not less than the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 8,000,000,000 gallons of renewable fuel; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—

''(A) PROVISION OF ESTIMATE OF VOLUMES OF GASOLINE SALES.—Not later than October 31 of each of calendar years 2005 through 2011, the Administrator of the Energy Information Administration shall provide to the Administrator of the Environmental Protection Agency an estimate, with respect to the following calendar year, of the volumes of gasoline projected to be sold or introduced into commerce in the United States.

''(B) DETERMINATION OF APPLICABLE PERCENTAGES.—

''(i) IN GENERAL.—Not later than November 30 of each of calendar years 2005 through 2012, based on the estimate provided under subparagraph (A), the Administrator of the Environmental Protection Agency shall determine and publish in the Federal Register, with respect to the following calendar year, the renewable fuel obligation that ensures that the requirements of paragraph (2) are met.

''(ii) REQUIRED ELEMENTS.—The renewable fuel obligation determined for a calendar year under clause (i) shall—

''(I) be applicable to refineries, blenders, and importers, as appropriate;

''(II) be expressed in terms of a volume percentage of gasoline sold or introduced into commerce in the United States; and

''(III) subject to subparagraph (C)(i), consist of a single applicable percentage that applies to all categories of persons specified in subclause (I).

''(C) ADJUSTMENTS.—In determining the applicable percentage for a calendar year, the Administrator shall make adjustments—

''(i) to prevent the imposition of redundant obligations on any person specified in subparagraph (B)(ii)(I); and

''(ii) to account for the use of renewable fuel during the previous calendar year by small refineries that are exempt under paragraph (9).

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated under paragraph (2)(A) shall provide—

''(i) for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2);

''(ii) for the generation of an appropriate amount of credits for biodiesel; and

''(iii) for the generation of credits by small refineries in accordance with paragraph (9)(C).

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) DURATION OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance for the calendar year in which the credit was generated.

''(D) INABILITY TO GENERATE OR PURCHASE SUFFICIENT CREDITS.—The regulations promulgated under paragraph (2)(A) shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements of paragraph (2) to carry forward a renewable fuel deficit on condition that the person, in the calendar year following the year in which the renewable fuel deficit is created—

''(i) achieves compliance with the renewable fuel requirement under paragraph (2); and

''(ii) generates or purchases additional renewable fuel credits to offset the renewable fuel deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2006 through 2012, the Administrator of the Energy Information Administration shall conduct a study of renewable fuel blending to determine whether there are excessive seasonal variations in the use of renewable fuel.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator of the Environmental Protection Agency shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) is used during each of the 2 periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuel necessary to meet the requirements of paragraph (2) has been used during 1 of the 2 periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The 2 periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSION.—Renewable fuel blended or consumed in calendar year 2006 in a State that has received a waiver under section 209(b) shall not be included in the study under subparagraph (A).

''(F) STATE EXEMPTION FROM SEASONALITY REQUIREMENTS.—Notwithstanding any other provision of law, the seasonality requirement relating to renewable fuel use established by this paragraph shall not apply to any State that has received a waiver under section 209(b).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirements of paragraph (2) in whole or in part on petition by 1 or more States by reducing the national quantity of renewable fuel required under paragraph (2)—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirements of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—

''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary of Energy shall conduct for the Administrator a study assessing whether the renewable fuel requirement under paragraph (2) will likely result in significant adverse impacts on consumers in 2006, on a national, regional, or State basis.

''(B) REQUIRED EVALUATIONS.—The study shall evaluate renewable fuel—

''(i) supplies and prices;

''(ii) blendstock supplies; and

''(iii) supply and distribution system capabilities.

''(C) RECOMMENDATIONS BY THE SECRETARY.—Based on the results of the study, the Secretary of Energy shall make specific recommendations to the Administrator concerning waiver of the requirements of paragraph (2), in whole or in part, to prevent any adverse impacts described in subparagraph (A).

''(D) WAIVER.—

''(i) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the Administrator shall, if and to the extent recommended by the Secretary of Energy under subparagraph (C), waive, in whole or in part, the renewable fuel requirement under paragraph (2) by reducing the national quantity of renewable fuel required under paragraph (2) in calendar year 2006.

''(ii) NO EFFECT ON WAIVER AUTHORITY.—Clause (i) does not limit the authority of the Administrator to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7).

''(9) SMALL REFINERIES.—

''(A) TEMPORARY EXEMPTION.—

''(i) IN GENERAL.—The requirements of paragraph (2) shall not apply to small refineries until calendar year 2011.

''(ii) EXTENSION OF EXEMPTION.—

''(I) STUDY BY SECRETARY OF ENERGY.—Not later than December 31, 2008, the Secretary of Energy shall conduct for the Administrator a study to determine whether compliance with the requirements of paragraph (2) would impose a disproportionate economic hardship on small refineries.

''(II) EXTENSION OF EXEMPTION.—In the case of a small refinery that the Secretary of Energy determines under subclause (I) would be subject to a disproportionate economic hardship if required to comply with paragraph (2), the Administrator shall extend the exemption under clause (i) for the small refinery for a period of not less than 2 additional years.

''(B) PETITIONS BASED ON DISPROPORTIONATE ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption under subparagraph (A) for the reason of disproportionate economic hardship.

''(ii) EVALUATION OF PETITIONS.—In evaluating a petition under clause (i), the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study under subparagraph (A)(ii) and other economic factors.

''(iii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the date of receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A), the regulations promulgated under paragraph (2)(A) shall provide for the generation of credits by the small refinery

under paragraph (5) beginning in the calendar year following the date of notification.

''(D) OPT-IN FOR SMALL REFINERIES.—A small refinery shall be subject to the requirements of paragraph (2) if the small refinery notifies the Administrator that the small refinery waives the exemption under subparagraph (A).

''(10) ETHANOL MARKET CONCENTRATION ANALYSIS.—

''(A) ANALYSIS.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, and annually thereafter, the Federal Trade Commission shall perform a market concentration analysis of the ethanol production industry using the Herfindahl-Hirschman Index to determine whether there is sufficient competition among industry participants to avoid price-setting and other anticompetitive behavior.

''(ii) SCORING.—For the purpose of scoring under clause (i) using the Herfindahl-Hirschman Index, all marketing arrangements among industry participants shall be considered.

''(B) REPORT.—Not later than December 1, 2005, and annually thereafter, the Federal Trade Commission shall submit to Congress and the Administrator a report on the results of the market concentration analysis performed under subparagraph (A)(i).

''(p) RENEWABLE FUEL SAFE HARBOR.—

''(1) IN GENERAL.—

''(A) SAFE HARBOR.—Notwithstanding any other provision of Federal or State law, no renewable fuel (as defined in subsection (o)(1)) used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing renewable fuel, shall be deemed to be defective in design or manufacture by reason of the fact that the fuel is, or contains, renewable fuel, if—

''(i) the fuel does not violate a control or prohibition imposed by the Administrator under this section; and

''(ii) the manufacturer of the fuel is in compliance with all requests for information under subsection (b).

''(B) SAFE HARBOR NOT APPLICABLE.—In any case in which subparagraph (A) does not apply to a quantity of fuel, the existence of a design defect or manufacturing defect with respect to the fuel shall be determined under otherwise applicable law.

''(2) EXCEPTION.—This subsection does not apply to ethers.

''(3) APPLICABILITY.—This subsection applies with respect to all claims filed on or after the date of enactment of this subsection.''.

(b) PENALTIES AND ENFORCEMENT.—Section 211(d) of the Clean Air Act (42 U.S.C. 7545(d)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking ''or (n)'' each place it appears and inserting ''(n), or (o)''; and

(B) in the second sentence, by striking ''or (m)'' and inserting ''(m), or (o)''; and

(2) in the first sentence of paragraph (2), by striking ''and (n)'' each place it appears and inserting ''(n), and (o)''.

(c) EXCLUSION FROM ETHANOL WAIVER.—Section 211(h) of the Clean Air Act (42 U.S.C. 7545(h)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

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

''(5) EXCLUSION FROM ETHANOL WAIVER.—

''(A) PROMULGATION OF REGULATIONS.—Upon notification, accompanied by supporting documentation, from the Governor of a State that the Reid vapor pressure limitation established by paragraph (4) will increase emissions that contribute to air pollution in any area in the State, the Administrator shall, by regulation, apply, in lieu of the Reid vapor pressure limitation established by paragraph (4), the Reid vapor pressure limitation established by paragraph (1) to all fuel blends containing gasoline and 10 percent denatured anhydrous ethanol that are sold, offered for sale, dispensed, supplied, offered for supply, transported, or introduced into commerce in the area during the high ozone season.

''(B) DEADLINE FOR PROMULGATION.—The Administrator shall promulgate regulations under subparagraph (A) not later than 90 days after the date of receipt of a notification from a Governor under that subparagraph.

''(C) EFFECTIVE DATE.—

''(i) IN GENERAL.—With respect to an area in a State for which the Governor submits a notification under subparagraph (A), the regulations under that subparagraph shall take effect on the later of—

''(I) the first day of the first high ozone season for the area that begins after the date of receipt of the notification; or

''(II) 1 year after the date of receipt of the notification.

''(ii) EXTENSION OF EFFECTIVE DATE BASED ON DETERMINATION OF INSUFFICIENT SUPPLY.—

''(I) IN GENERAL.—If, after receipt of a notification with respect to an area from a Governor of a State under subparagraph (A), the Administrator determines, on the Administrator's own motion or on petition of any person and after consultation with the Secretary of Energy, that the promulgation of regulations described in subparagraph (A) would result in an insufficient supply of gasoline in the State, the Administrator, by regulation—

''(aa) shall extend the effective date of the regulations under clause (i) with respect to the area for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 206. RENEWABLE FUEL.

(a) IN GENERAL.—The Clean Air Act is amended by inserting after section 211 (42 U.S.C. 7411) the following:

''SEC. 212. RENEWABLE FUEL.

''(a) DEFINITIONS.—In this section:

''(1) MUNICIPAL SOLID WASTE.—The term 'municipal solid waste' has the meaning given the term 'solid waste' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).

''(2) RFG STATE.—The term 'RFG State' means a State in which is located 1 or more covered areas (as defined in section 211(k)(10)(D)).

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Energy.

''(b) SURVEY OF RENEWABLE FUEL MARKET.—

''(1) SURVEY AND REPORT.—Not later than December 1, 2006, and annually thereafter, the Administrator shall—

''(A) conduct, with respect to each conventional gasoline use area and each reformulated gasoline use area in each State, a survey to determine the market shares of—

''(i) conventional gasoline containing ethanol;

''(ii) reformulated gasoline containing ethanol;

''(iii) conventional gasoline containing renewable fuel; and

''(iv) reformulated gasoline containing renewable fuel; and

''(B) submit to Congress, and make publicly available, a report on the results of the survey under subparagraph (A).

''(2) RECORDKEEPING AND REPORTING REQUIREMENTS.—

''(A) IN GENERAL.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate.

''(B) RELIANCE ON EXISTING REQUIREMENTS.—To avoid duplicative requirements, in carrying out subparagraph (A), the Administrator shall rely, to the maximum extent practicable, on reporting and recordkeeping requirements in effect on the date of enactment of this section.

''(3) CONFIDENTIALITY.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

''(c) CELLULOSIC BIOMASS ETHANOL AND MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.—

''(1) IN GENERAL.—Funds may be provided for the cost (as defined in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of loan guarantees issued under section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919) to carry out commercial demonstration projects for celluosic biomass and sucrose-derived ethanol.

''(2) DEMONSTRATION PROJECTS.—

''(A) IN GENERAL.—The Secretary shall issue loan guarantees under this section to carry out not more than 4 projects to commercially demonstrate the feasibility and viability of producing cellulosic biomass ethanol or sucrose-derived ethanol, including at least 1 project that uses cereal straw as a feedstock and 1 project that uses municipal solid waste as a feedstock.

''(B) DESIGN CAPACITY.—Each project shall have a design capacity to produce at least 30,000,000 gallons of cellulosic biomass ethanol each year.

''(3) APPLICANT ASSURANCES.—An applicant for a loan guarantee under this section shall provide assurances, satisfactory to the Secretary, that—

''(A) the project design has been validated through the operation of a continuous process facility with a cumulative output of at least 50,000 gallons of ethanol;

''(B) the project has been subject to a full technical review;

''(C) the project is covered by adequate project performance guarantees;

''(D) the project, with the loan guarantee, is economically viable; and

''(E) there is a reasonable assurance of repayment of the guaranteed loan.

''(4) LIMITATIONS.—

''(A) MAXIMUM GUARANTEE.—Except as provided in subparagraph (B), notwithstanding section 19(c)(2)(A) of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919(c)(2)(A)), a loan guarantee under this section may be issued for up to 80 percent of the estimated cost of a project, but may not exceed $250,000,000 for a project.

''(B) ADDITIONAL GUARANTEES.—

''(i) IN GENERAL.—The Secretary may issue additional loan guarantees for a project to cover up to 80 percent of the excess of actual project cost over estimated project cost but not to exceed 15 percent of the amount of the original guarantee.

''(ii) PRINCIPAL AND INTEREST.—Subject to subparagraph (A), the Secretary shall guarantee 100 percent of the principal and interest of a loan made under subparagraph (A).

''(5) EQUITY CONTRIBUTIONS.—To be eligible for a loan guarantee under this section, an applicant for the loan guarantee shall have binding commitments from equity investors to provide an initial equity contribution of at least 20 percent of the total project cost.

''(6) EFFECT OF OTHER LAWS.—The following provisions are inapplicable to a loan guarantee made under this section:

''(A) Subsections (m) and (p) of section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5919).

''(B) The first, third, and fourth sentences of section 19(g)(4) of that Act.

''(7) INSUFFICIENT AMOUNTS.—If the amount made available to carry out this section is insufficient to allow the Secretary to make loan guarantees for 3 projects described in subsection (b), the Secretary shall issue loan guarantees for 1 or more qualifying projects under this section in the order in which the applications for the projects are received by the Secretary.

''(8) APPROVAL.—An application for a loan guarantee under this section shall be approved or disapproved by the Secretary not later than 90 days after the application is received by the Secretary.

''(d) AUTHORIZATION OF APPROPRIATIONS FOR RESOURCE CENTER.—There is authorized to be appropriated, for a resource center to further develop bioconversion technology using low-cost biomass for the production of ethanol at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University, $4,000,000 for each of fiscal years 2005 through 2007.

''(e) RENEWABLE FUEL PRODUCTION RESEARCH AND DEVELOPMENT GRANTS.—

''(1) IN GENERAL.—The Administrator shall provide grants for the research into, and development and implementation of, renewable fuel production technologies in RFG States with low rates of ethanol production, including low rates of production of cellulosic biomass ethanol.

''(2) ELIGIBILITY.—

''(A) IN GENERAL.—The entities eligible to receive a grant under this subsection are academic institutions in RFG States, and consortia made up of combinations of academic institutions, industry, State government agencies, or local government agencies in RFG States, that have proven experience and capabilities with relevant technologies.

''(B) APPLICATION.—To be eligible to receive a grant under this subsection, an eligible entity shall submit to the Administrator an application in such manner and form, and accompanied by such information, as the Administrator may specify.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $25,000,000 for each of fiscal years 2006 through 2010.

''(f) CELLULOSIC BIOMASS ETHANOL CONVERSION ASSISTANCE.—

''(1) IN GENERAL.—The Secretary may provide grants to merchant producers of cellulosic biomass ethanol in the United States to assist the producers in building eligible production facilities described in paragraph (2) for the production of cellulosic biomass ethanol.

''(2) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this subsection if the production facility—

''(A) is located in the United States; and

''(B) uses cellulosic biomass feedstocks derived from agricultural residues or municipal solid waste.

''(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection—

''(A) $250,000,000 for fiscal year 2005; and

''(B) $400,000,000 for fiscal year 2006.''.

(b) CONFORMING AMENDMENT.—The table of contents for the Clean Air Act (42 U.S.C. 7401 prec.) is amended by inserting after the item relating to section 211 the following:

''Sec. 212. Renewable fuels''.

SEC. 207. SURVEY OF RENEWABLE FUELS CONSUMPTION.

Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:

''(m) SURVEY OF RENEWABLE FUELS CONSUMPTION.—

''(1) IN GENERAL.—In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses.

''(2) ELEMENTS OF SURVEY.—In conducting the survey, the Administrator shall collect information retrospectively to 1998, on a national basis and a regional basis, including—

''(A) the quantity of renewable fuels produced;

''(B) the cost of production;

''(C) the cost of blending and marketing;

''(D) the quantity of renewable fuels blended;

''(E) the quantity of renewable fuels imported; and

''(F) market price data.''.

Subtitle C—Federal Reformulated Fuels

SEC. 209. SHORT TITLE.

This subtitle may be cited as the ''Federal Reformulated Fuels Act of 2005''.

SEC. 210. LEAKING UNDERGROUND STORAGE TANKS.

(a) USE OF LUST FUNDS FOR REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—Section 9003(h) of the Solid Waste Disposal Act (42 U.S.C. 6991b(h)) is amended—

(1) in paragraph (7)(A)—

(A) by striking ''paragraphs (1) and (2) of this subsection'' and inserting ''paragraphs (1), (2), and (12)''; and

(B) by inserting ''and section 9010'' before ''if''; and

(2) by adding at the end the following:

''(12) REMEDIATION OF CONTAMINATION FROM ETHER FUEL ADDITIVES.—

''(A) IN GENERAL.—The Administrator and the States may use funds made available under section 9013(1) to carry out corrective actions with respect to a release of methyl tertiary butyl ether or other ether fuel additive that presents a threat to human health, welfare, or the environment.

''(B) APPLICABLE AUTHORITY.—Subparagraph (A) shall be carried out—

''(i) in accordance with paragraph (2), except that a release with respect to which a corrective action is carried out under subparagraph (A) shall not be required to be from an underground storage tank; and

''(ii) in the case of a State, in accordance with a cooperative agreement entered into by the Administrator and the State under paragraph (7).''.

(b) RELEASE PREVENTION AND COMPLIANCE.—Subtitle I of the Solid Waste Disposal Act (42 U.S.C. 6991 et seq.) is amended by striking section 9010 and inserting the following:

''SEC. 9010. RELEASE PREVENTION AND COMPLIANCE.

''Funds made available under section 9013(2) from the Leaking Underground Storage Tank Trust Fund may be used for conducting inspections, or for issuing orders or bringing actions under this subtitle—

''(1) by a State (pursuant to section 9003(h)(7)) acting under—

''(A) a program approved under section 9004; or

''(B) State requirements regulating underground storage tanks that are similar or identical to this subtitle, as determined by the Administrator; and

''(2) by the Administrator, acting under this subtitle or a State program approved under section 9004.

''SEC. 9011. AUTHORIZATION OF APPROPRIATIONS.

''In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—

''(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2005, to remain available until expended; and

''(2) to carry out section 9010—

''(A) $50,000,000 for fiscal year 2005; and

''(B) $30,000,000 for fiscal years 2006 through 2010.''.

(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. 211. RESTRICTIONS ON THE USE OF MTBE.

(a) FINDINGS.—Congress finds that—

(1) since 1979, methyl tertiary butyl ether (referred to in this section as ''MTBE'') has been used nationwide at low levels in gasoline to replace lead as an octane booster or anti-knocking agent;

(2) Public Law 101–549 (commonly known as the ''Clean Air Act Amendments of 1990'') (42 U.S.C. 7401 et seq.) established a fuel oxygenate standard under which reformulated gasoline must contain at least 2 percent oxygen by weight;

(3) at the time of the adoption of the fuel oxygenate standard, Congress was aware that—

(A) significant use of MTBE could result from the adoption of that standard; and

(B) the use of MTBE would likely be important to the cost-effective implementation of that standard;

(4) Congress is aware that gasoline and its component additives have leaked from storage tanks, with consequences for water quality;

(5) the fuel industry responded to the fuel oxygenate standard established by Public Law 101–549 by making substantial investments in—

(A) MTBE production capacity; and

(B) systems to deliver MTBE-containing gasoline to the marketplace;

(6) when leaked or spilled into the environment, MTBE may cause serious problems of drinking water quality;

(7) in recent years, MTBE has been detected in water sources throughout the United States;

(8) MTBE can be detected by smell and taste at low concentrations;

(9) while small quantities of MTBE can render water supplies unpalatable, the precise human health effects of MTBE consumption at low levels are yet unknown as of the date of enactment of this Act;

(10) in the report entitled ''Achieving Clean Air and Clean Water: The Report of the Blue Ribbon Panel on Oxygenates in Gasoline'' and dated September 1999, Congress was urged—

(A) to eliminate the fuel oxygenate standard;

(B) to greatly reduce use of MTBE; and

(C) to maintain the environmental performance of reformulated gasoline;

(11) Congress has—

(A) reconsidered the relative value of MTBE in gasoline; and

(B) decided to eliminate use of MTBE as a fuel additive;

(12) the timeline for elimination of use of MTBE as a fuel additive must be established in a manner that achieves an appropriate balance among the goals of—

(A) environmental protection;

(B) adequate energy supply; and

(C) reasonable fuel prices; and

(13) it is appropriate for Congress to provide some limited transition assistance—

(A) to merchant producers of MTBE who produced MTBE in response to a market created by the oxygenate requirement contained in the Clean Air Act (42 U.S.C. 7401 et seq.); and

(B) for the purpose of mitigating any fuel supply problems that may result from elimination of a widely-used fuel additive.

(b) PURPOSES.—The purposes of this section are—

(1) to eliminate use of MTBE as a fuel oxygenate; and

(2) to provide assistance to merchant producers of MTBE in making the transition from producing MTBE to producing other fuel additives.

(c) AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.—Section 211(c) of the Clean Air Act (42 U.S.C. 7545(c)) is amended—

(1) in paragraph (1)(A)—

(A) by inserting ''fuel or fuel additive or'' after ''Administrator any''; and

(B) by striking ''air pollution which'' and inserting ''air pollution, or water pollution, that'';

(2) in paragraph (4)(B), by inserting ''or water quality protection,'' after ''emission control,''; and

(3) by adding at the end the following:

''(5) RESTRICTIONS ON USE OF MTBE.—

''(A) IN GENERAL.—Subject to subparagraph (E), not later than 4 years after the date of enactment of this paragraph, the use of methyl tertiary butyl ether in motor vehicle fuel in any State other than a State described in subparagraph (C) is prohibited.

''(B) REGULATIONS.—The Administrator shall promulgate regulations to effect the prohibition in subparagraph (A).

''(C) STATES THAT AUTHORIZE USE.—A State described in this subparagraph is a State that submits to the Administrator a notice that the State authorizes use of methyl tertiary butyl ether in motor vehicle fuel sold or used in the State.

''(D) PUBLICATION OF NOTICE.—The Administrator shall publish in the Federal Register each notice submitted by a State under subparagraph (C).

''(E) TRACE QUANTITIES.—In carrying out subparagraph (A), the Administrator may allow trace quantities of methyl tertiary butyl ether, not to exceed 0.5 percent by volume, to be present in motor vehicle fuel in cases that the Administrator determines to be appropriate.

''(6) MTBE MERCHANT PRODUCER CONVERSION ASSISTANCE.—

''(A) IN GENERAL.—

''(i) GRANTS.—The Secretary of Energy, in consultation with the Administrator, may make grants to merchant producers of methyl tertiary butyl ether in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of—

''(I) iso-octane or alkylates, unless the Administrator, in consultation with the Secretary of Energy, determines that transition assistance for the production of iso-octane or alkylates is inconsistent with the criteria specified in subparagraph (B); and

''(II) any other fuel additive that meets the criteria specified in subparagraph (B).

''(B) CRITERIA.—The criteria referred to in subparagraph (A) are that—

''(i) use of the fuel additive is consistent with this subsection;

''(ii) the Administrator has not determined that the fuel additive may reasonably be anticipated to endanger public health or the environment;

''(iii) the fuel additive has been registered and tested, or is being tested, in accordance with the requirements of this section; and

''(iv) the fuel additive will contribute to replacing quantities of motor vehicle fuel rendered unavailable as a result of paragraph (5).

''(C) ELIGIBLE PRODUCTION FACILITIES.—A production facility shall be eligible to receive a grant under this paragraph if the production facility—

''(i) is located in the United States; and

''(ii) produced methyl tertiary butyl ether for consumption in nonattainment areas during the period—

''(I) beginning on the date of enactment of this paragraph; and

''(II) ending on the effective date of the prohibition on the use of methyl tertiary butyl ether under paragraph (5).

''(D) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph $250,000,000 for each of fiscal years 2005 through 2008.''.

(d) NO EFFECT ON LAW CONCERNING STATE AUTHORITY.—The amendments made by subsection (c) have no effect on the law in effect on the day before the date of enactment of this Act concerning the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

SEC. 212. ELIMINATION OF OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE.

(a) ELIMINATION.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended—

(A) in paragraph (2)—

(i) in the second sentence of subparagraph (A), by striking ''(including the oxygen content requirement contained in subparagraph (B))'';

(ii) by striking subparagraph (B); and

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

(B) in paragraph (3)(A), by striking clause (v); and

(C) in paragraph (7)—

(i) in subparagraph (A)—

(I) by striking clause (i); and

(II) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(ii) in subparagraph (C)—

(I) by striking clause (ii); and

(II) by redesignating clause (iii) as clause (ii).

(2) APPLICABILITY.—The amendments made by paragraph (1) apply—

(A) in the case of a State that has received a waiver under section 209(b) of the Clean Air Act (42 U.S.C. 7543(b)), beginning on the date of enactment of this Act; and

(B) in the case of any other State, beginning 270 days after the date of enactment of this Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(1) by striking ''Within 1 year after the enactment of the Clean Air Act Amendments of 1990,'' and inserting the following:

''(A) IN GENERAL.—Not later than November 15, 1991,''; and

(2) by adding at the end the following:

''(B) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSIONS REDUCTIONS FROM REFORMULATED GASOLINE.—

''(i) DEFINITION OF PADD.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS CONCERNING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish by regulation, for each refinery or importer (other than a refiner or importer in a State that has received a waiver under section 209(b) with respect to gasoline produced for use in that State), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refiner or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002 (as determined on the basis of data collected by the Administrator with respect to the refiner or importer).

''(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refiner or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refiner or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refiner or importer during calendar years 2001 and 2002.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refiner or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for emissions of toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 2001 and 2002; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the

reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 2001 and 2002, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refiner or importer shall meet the standards applicable under clause (iii)(I) beginning not later than April 1 of the calendar year following publication of the report under subclause (I) and in each calendar year thereafter.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2005, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) COMMINGLING.—

(1) IN GENERAL.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by adding at the end the following:

''(11) COMMINGLING.—The regulations under paragraph (1) shall permit the commingling at a retail station of reformulated gasoline containing ethanol and reformulated gasoline that does not contain ethanol if, each time such commingling occurs—

''(A) the retailer notifies the Administrator before the commingling, identifying the exact location of the retail station and the specific tank in which the commingling will take place; and

''(B) the retailer certifies that the reformulated gasoline resulting from the commingling will meet all applicable requirements for reformulated gasoline, including content and emission performance standards.''.

(d) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(e) SAVINGS CLAUSE.—

(1) IN GENERAL.—Nothing in this section or any amendment made by this section affects or prejudices any legal claim or action with respect to regulations promulgated by the Administrator before the date of enactment of this Act regarding—

(A) emissions of toxic air pollutants from motor vehicles; or

(B) the adjustment of standards applicable to a specific refinery or importer made under those regulations.

(2) ADJUSTMENT OF STANDARDS.—

(A) APPLICABILITY.—The Administrator may apply any adjustments to the standards applicable to a refinery or importer under subparagraph (B)(iii)(I) of section 211(k)(1) of the Clean Air Act (as added by subsection (b)(2)), except that—

(i) the Administrator shall revise the adjustments to be based only on calendar years 2001 and 2002;

(ii) any such adjustment shall not be made at a level below the average percentage of reductions of emissions of toxic air pollutants for reformulated gasoline supplied to PADD I during calendar years 2001 and 2002; and

(iii) in the case of an adjustment based on toxic air pollutant emissions from reformulated gasoline significantly below the national annual average emissions of toxic air pollutants from all reformulated gasoline—

(I) the Administrator may revise the adjustment to take account of the scope of the prohibition on methyl tertiary butyl ether imposed by paragraph (5) of section 211(c) of the Clean Air Act (as added by section 211(c)); and

(II) any such adjustment shall require the refiner or importer, to the maximum extent practicable, to maintain the reduction achieved during calendar years 2001 and 2002 in the average annual aggregate emissions of toxic air pollutants from reformulated gasoline produced or distributed by the refiner or importer.

SEC. 213. PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS OF FUELS AND FUEL ADDITIVES.

Section 211(b) of the Clean Air Act (42 U.S.C. 7545(b)) is amended—

(1) in paragraph (2)—

(A) by striking ''may also'' and inserting ''shall, on a regular basis,''; and

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

''(A) to conduct tests to determine potential public health and environmental effects of the fuel or additive (including carcinogenic, teratogenic, or mutagenic effects); and''; and

(2) by adding at the end the following:

''(4) STUDY ON CERTAIN FUEL ADDITIVES AND BLENDSTOCKS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this paragraph, the Administrator shall—

''(i) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of increased use of, and the feasibility of using as substitutes for methyl tertiary butyl ether in gasoline—

''(I) ethyl tertiary butyl ether;

''(II) tertiary amyl methyl ether;

''(III) di-isopropyl ether;

''(IV) tertiary butyl alcohol;

''(V) other ethers and heavy alcohols, as determined by then Administrator;

''(VI) ethanol;

''(VII) iso-octane; and

''(VIII) alkylates; and

''(ii) conduct a study on the effects on public health (including the effects on children, pregnant women, minority or low-income communities, and other sensitive populations), air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the volatile organic compounds performance requirements that are applicable under paragraphs (1) and (3) of section 211(k); and

''(iii) submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a report describing the results of the studies under clauses (i) and (ii).

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into 1 or more contracts with nongovernmental entities such as—

''(i) the national energy laboratories; and

''(ii) institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

SEC. 214. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 205(a)) is amended by inserting after subsection (p) the following:

''(q) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this paragraph, the Administrator shall publish for public comment a draft analysis of the changes in emissions of air pollutants and air quality due to the use of motor vehicle fuel and fuel additives resulting from implementation of the amendments made by the Federal Reformulated Fuels Act of 2005.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this section, not later than 4 years after the date of enactment of this paragraph, the Administrator shall develop and finalize an emissions model that reflects, to the maximum extent practicable, the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2007.

''(3) PERMEATION EFFECTS STUDY.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Administrator shall conduct a study, and report to Congress the results of the study, on the effects of ethanol content in gasoline on permeation, the process by which fuel molecules migrate through the elastomeric materials (rubber and plastic parts) that make up the fuel and fuel vapor systems of a motor vehicle.

''(B) EVAPORATIVE EMISSIONS.—The study shall include estimates of the increase in total evaporative emissions likely to result from the use of gasoline with ethanol content in a motor vehicle, and the fleet of motor vehicles, due to permeation.''.

SEC. 215. ADDITIONAL OPT-IN AREAS UNDER REFORMULATED GASOLINE PROGRAM.

Section 211(k)(6) of the Clean Air Act (42 U.S.C. 7545(k)(6)) is amended—

(1) by striking ''(6) OPT-IN AREAS.—(A) Upon'' and inserting the following:

''(6) OPT-IN AREAS.—

''(A) CLASSIFIED AREAS.—

''(i) IN GENERAL.—Upon'';

(2) in subparagraph (B), by striking ''(B) If'' and inserting the following:

''(ii) EFFECT OF INSUFFICIENT DOMESTIC CAPACITY TO PRODUCE REFORMULATED GASOLINE.—If'';

(3) in subparagraph (A)(ii) (as redesignated by paragraph (2))—

(A) in the first sentence, by striking ''subparagraph (A)'' and inserting ''clause (i)''; and

(B) in the second sentence, by striking ''this paragraph'' and inserting ''this subparagraph''; and

(4) by adding at the end the following:

''(B) OZONE TRANSPORT REGION.—

''(i) APPLICATION OF PROHIBITION.—

''(I) IN GENERAL.—On application of the Governor of a State in the ozone transport region established by section 184(a), the Administrator, not later than 180 days after the date of receipt of the application, shall apply the prohibition specified in paragraph (5) to any area in the State (other than an area classified as a marginal, moderate, serious, or severe ozone nonattainment area under subpart 2 of part D of title I) unless the Administrator determines under clause (iii)

that there is insufficient capacity to supply reformulated gasoline.

''(II) PUBLICATION OF APPLICATION.—As soon as practicable after the date of receipt of an application under subclause (I), the Administrator shall publish the application in the Federal Register.

''(ii) PERIOD OF APPLICABILITY.—Under clause (i), the prohibition specified in paragraph (5) shall apply in a State—

''(I) commencing as soon as practicable but not later than 2 years after the date of approval by the Administrator of the application of the Governor of the State; and

''(II) ending not earlier than 4 years after the commencement date determined under subclause (I).

''(iii) EXTENSION OF COMMENCEMENT DATE BASED ON INSUFFICIENT CAPACITY.—

''(I) IN GENERAL.—If, after receipt of an application from a Governor of a State under clause (i), the Administrator determines, on the Administrator's own motion or on petition of any person, after consultation with the Secretary of Energy, that there is insufficient capacity to supply reformulated gasoline, the Administrator, by regulation—

''(aa) shall extend the commencement date with respect to the State under clause (ii)(I) for not more than 1 year; and

''(bb) may renew the extension under item (aa) for 2 additional periods, each of which shall not exceed 1 year.

''(II) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted under subclause (I) not later than 180 days after the date of receipt of the petition.''.

SEC. 216. FEDERAL ENFORCEMENT OF STATE FUELS REQUIREMENTS.

Section 211(c)(4)(C) of the Clean Air Act (42 U.S.C. 7545(c)(4)(C)) is amended—

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

''(C) AUTHORITY OF STATE TO CONTROL FUELS AND FUEL ADDITIVES FOR REASONS OF NECESSITY.—

''(i) IN GENERAL.—A State''; and

(2) by adding at the end the following:

''(ii) ENFORCEMENT BY THE ADMINISTRATOR.—In any case in which a State prescribes and enforces a control or prohibition under clause (i), the Administrator, at the request of the State, shall enforce the control or prohibition as if the control or prohibition had been adopted under the other provisions of this section.''.

SEC. 217. FUEL SYSTEM REQUIREMENTS HARMONIZATION STUDY.

(a) STUDY.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall jointly conduct a study of Federal, State, and local requirements concerning motor vehicle fuels, including—

(A) requirements relating to reformulated gasoline, volatility (measured in Reid vapor pressure), oxygenated fuel, and diesel fuel; and

(B) other requirements that vary from State to State, region to region, or locality to locality.

(2) REQUIRED ELEMENTS.—The study shall assess—

(A) the effect of the variety of requirements described in paragraph (1) on the supply, quality, and price of motor vehicle fuels available to the consumer;

(B) the effect of the requirements described in paragraph (1) on achievement of—

(i) national, regional, and local air quality standards and goals; and

(ii) related environmental and public health protection standards and goals (including the protection of children, pregnant women, minority or low-income communities, and other sensitive populations);

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refiners;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refiners, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while protecting and improving air quality at the national, regional, and local levels, could—

(i) enhance flexibility in the fuel distribution infrastructure and improve fuel fungibility;

(ii) reduce price volatility and costs to consumers and producers;

(iii) provide increased liquidity to the gasoline market; and

(iv) enhance fuel quality, consistency, and supply; and

(F) the feasibility of providing incentives, and the need for the development of national standards necessary, to promote cleaner burning motor vehicle fuel.

(b) REPORT.—

(1) IN GENERAL.—Not later than June 1, 2008, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall submit to Congress a report on the results of the study conducted under subsection (a).

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—The report shall contain recommendations for legislative and administrative actions that may be taken—

(i) to improve air quality;

(ii) to reduce costs to consumers and producers; and

(iii) to increase supply liquidity.

(B) REQUIRED CONSIDERATIONS.—The recommendations under subparagraph (A) shall take into account the need to provide advance notice of required modifications to refinery and fuel distribution systems in order to ensure an adequate supply of motor vehicle fuel in all States.

(3) CONSULTATION.—In developing the report, the Administrator of the Environmental Protection Agency and the Secretary of Energy shall consult with—

(A) the Governors of the States;

(B) automobile manufacturers;

(C) State and local air pollution control regulators;

(D) public health experts;

(E) motor vehicle fuel producers and distributors; and

(F) the public.

SEC. 218. ADVANCED BIOFUEL TECHNOLOGIES PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations under subsection (d), the Administrator of the Environmental Protection Agency shall, in consultation with the Secretary of Agriculture and the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (Public Law 106–224; 7 U.S.C. 8101 note), establish a program, to be known as the ''Advanced Biofuel Technologies Program'', to demonstrate advanced technologies for the production of alternative transportation fuels.

(b) PRIORITY.—In carrying out the program under subsection (a), the Administrator shall give priority to projects that enhance the geographical diversity of alternative fuels production and utilize feedstocks that represent 10 percent or less of ethanol or biodiesel fuel production in the United States during the previous fiscal year.

(c) DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—As part of the program under subsection (a), the Administrator shall fund demonstration projects—

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol; and

(B) to develop not less than 5 technologies for coproducing value-added bioproducts (such as fertilizers, herbicides, and pesticides) resulting from the production of biodiesel fuel.

(2) ADMINISTRATION.—Demonstration projects under this subsection shall be—

(A) conducted based on a merit-reviewed, competitive process; and

(B) subject to the cost-sharing requirements of section 1002.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $110,000,000 for each of fiscal years 2005 through 2009.

SEC. 219. SUGAR CANE ETHANOL PROGRAM.

(a) DEFINITION OF PROGRAM.—In this section, the term ''program'' means the Sugar Cane Ethanol Program established by subsection (b).

(b) ESTABLISHMENT.—There is established within the Environmental Protection Agency a program to be known as the ''Sugar Cane Ethanol Program''.

(c) PROJECT.—

(1) IN GENERAL.—Subject to the availability of appropriations under subsection (d), in carrying out the program, the Administrator of the Environmental Protection Agency shall establish a project that is—

(A) carried out in multiple States—

(i) in each of which is produced cane sugar that is eligible for loans under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272), or a similar subsequent authority; and

(ii) at the option of each such State, that have an incentive program that requires the use of ethanol in the State; and

(B) designed to study the production of ethanol from cane sugar, sugarcane, and sugarcane byproducts.

(2) REQUIREMENTS.—A project described in paragraph (1) shall—

(A) be limited to the production of ethanol in the States of Florida, Louisiana, Texas, and Hawaii in a way similar to the existing program for the processing of corn for ethanol to demonstrate that the process may be applicable to cane sugar, sugarcane, and sugarcane byproducts;

(B) include information on the ways in which the scale of production may be replicated once the sugar cane industry has located sites for, and constructed, ethanol production facilities; and

(C) not last more than 3 years.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $36,000,000, to remain available until expended.

SA 780. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

On page 135, between lines 22 and 23, insert the following:

(2) CELLULOSIC BIOMASS-DERIVED LIQUID ALTERNATIVE FUEL.—

(A) IN GENERAL.—The term ''cellulosic biomass-derived liquid alternative fuel'' means an alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)), or a blending component for alternate fuel, that—

(i) is derived from cellulosic biomass feedstock or waste; and

(ii) remains substantially in a liquid phase at room temperature and atmospheric pressure.

(B) CERTAIN LIQUID ALTERNATIVE FUELS.—For any liquid alternative fuel that contains a component that is not derived from a cellulosic biomass feedstock or waste, only the portion of the fuel that is derived from a cellulosic biomass feedstock shall be considered to be a biomass-derived liquid alternative fuel.

(3) CELLULOSIC BIOMASS FEEDSTOCK.—The term ''cellulosic biomass feedstock'' means—

(A) dedicated energy crops and trees;

(B) wood and wood residues;

(C) plants;

(D) grasses;

(E) agricultural residues;

(F) fibers;

(G) animal wastes and other waste materials; and

(H) municipal solid waste.

On page 135, line 23, strike ''(2)'' and insert ''(4)''.

On page 137, line 1, strike ''(3)'' and insert ''(5)''.

On page 137, strike lines 7 through 13 and insert the following:

(6) WASTE.—The term ''waste'' means—

(A) animal wastes, including poultry fats and poultry wastes, and other waste materials; or

(B) municipal solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)).

On page 150, line 2, insert ''and cellulosic biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 150, line 10, insert ''or cellulosic biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 150, line 13, insert ''or cellulosic biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 150, line 21, insert ''or cellulosic biomass-derived liquid alternative fuels'' after ''ethanol''.

On page 158, strike lines 15 through 17 and insert the following:

(A) to develop not less than 4 different conversion technologies for producing cellulosic biomass ethanol and cellulosic biomass-derived liquid alternative fuel (as defined in section 204(a)); and

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SA 781. Mrs. BOXER proposed an amendment to amendment SA 779 proposed by Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mrs. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) to the bill H.R. 6, Reserved; as follows:

Beginning on page 20, strike line 25 and all that follows through page 22, line 3.

SA 782. Mr. SCHUMER proposed an amendment to amendment SA 779 proposed by Mr. DOMENICI (for himself, Mr. THUNE, Mr. HARKIN, Mr. LUGAR, Mr. DORGAN, Mr. FRIST, Mr. OBAMA, Mr. GRASSLEY, Mr. BAYH, Mr. BOND, Mr. NELSON of Nebraska, Mr. BROWNBACK, Mr. JOHNSON, Mr. HAGEL, Mr. CONRAD, Mr. DEWINE, Mr. DAYTON, Mr. TALENT, Ms. STABENOW, Mr. COLEMAN, Mr. SALAZAR, and Mr. DURBIN) to the bill H.R. 6, Reserved; as follows:

Strike subtitle B of the amendment.

SA 783. Mr. NELSON of Florida (for himself, Mr. MARTINEZ, Mr. CORZINE, Mrs. BOXER, Mr. LAUTENBERG, Mrs. FEINSTEIN, Mr. KERRY, and Mrs. DOLE) submitted an amendment intended to be proposed by him to the bill H.R. 6, Reserved; which was ordered to lie on the table; as follows:

Beginning on page 264, strike line 1 and all that follows through page 265, line 12.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON NATIONAL PARKS

Mr. THOMAS. Mr. President, I would like to announce for the information of the Senate and the public that the following hearing has been scheduled before the Subcommittee on National Parks of the Committee on Energy and Natural Resources:

The hearing will be held on Tuesday, June 28, 2005, at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of the hearing is to receive testimony on the following bills: S. 206, a bill to designate the Ice Age Floods National Geologic Trail, and for other purposes; S. 556, a bill to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study of certain land adjacent to the Walnut Canyon National Monument in the State of Arizona; S. 588, a bill to amend the National Trails System Act to direct the Secretary of the Interior and the Secretary of Agriculture to jointly conduct a study on the feasibility of designating the Arizona Trail as a national scenic trail or a national historic trail; and S. 955, a bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, SD–364, Dirksen Senate Office Building, Washington, DC 20510–6150.

For further information, please contact Tom Lillie at (202) 224–5161 or Brian Carlstrom at (202) 224–6293.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 14, 2005, at 9:30 a.m., to hold a hearing on North Korea.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Tuesday, June 14, at 10 a.m., for a hearing entitled, ''Finding and Fighting Fakes: Reviewing the Strategy Targeting Organized Piracy.''

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

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open executive session during the session on Tuesday, June 14, at 10 a.m., to review and make recommendations on proposed legislation implementing the U.S.-Central America-Dominican Republic Free Trade Agreement.

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

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be authorized to conduct a hearing during the session of the Senate on Tuesday, June 14, 2005 at 2 p.m. in SR–328A. The purpose of this hearing will be to review the benefits and future developments in agriculture and food biotechnology.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on June 14, 2005, at 2 p.m., to conduct a hearing on ''The Role of the Financial Markets in Social Security Reform.''

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

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, June 14, 2005, at 2 p.m. for a hearing regarding ''Accountability and Results in Federal Budgeting''.

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

SUBCOMMITTEE ON INTELLECTUAL PROPERTY

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on Intellectual Property be authorized to meet to conduct a hearing on ''Patent Law Reform: Injunctions and Damages'' on Tuesday, June 14, 2005 at 2:30 p.m. in Dirksen 226.

Tentative Witness List: Carl Gulbrandsen, Managing Director, Wisconsin Alumni Research Foundation (WARF), Madison, WI; Jeffrey P. Kushan, Partner, Sidley Austin Brown & Wood, LLP, Washington, DC; J. Jeffrey Hawley, President, Intellectual

Property Owners Association, and Legal Division Vice President, Eastman Kodak Co., Rochester, New York; Mark A. Lemley, Professor, Stanford Law School, Stanford, CA; Jonathan Band, Counsel on behalf of VISA and the Financial Services Roundtable, Washington, DC; Chuck Fish, Vice President and Chief Patent Counsel, Time Warner, Inc., New York, NY.

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

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Sreela Nandi, Tara Billingsley, and Dominic Saavedra, all of whom are fellows or interns with the Democratic staff and the Committee on Energy and Natural Resources, and Jonathan Epstein, a legislative fellow in my office, be granted floor privileges during the consideration of this bill, H.R. 6.

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

Mr. REID. Mr. President, on behalf of Senator CANTWELL, I ask unanimous consent Bernie Saffell, a fellow in her office, be granted floor privileges during consideration of the bill that will shortly be before the Senate, H.R. 6.

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

Mr. CRAIG. Mr. President, I ask unanimous consent that Dominic Saavedra, an intern on the staff of Senator BINGAMAN, be granted the privileges of the floor during the debate on H.R. 6 and the Energy Policy Act of 2005.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that Stephen Butschi of my staff be granted the privilege of the floor for the duration of today's session.

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

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to Public Law 94–304, as amended by Public Law 99–7, appoints the following Senators as members of the Commission on Security and Cooperation in Europe (Helsinki) during the 109th Congress: the Senator from Oregon, Mr. SMITH; the Senator from Georgia, Mr. CHAMBLISS; the Senator from North Carolina, Mr. BURR; and the Senator from Louisiana, Mr. VITTER.

HONORING THE LIFE OF ROBERT M. LA FOLLETTE, SR., ON THE SESQUICENTENNIAL OF HIS BIRTH

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 161, and the Senate proceed to its immediate consideration.

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

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 161) honoring the life of Robert M. La Follette, Sr., on the sesquicentennial of his birth.

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed at the appropriate place in the RECORD as if read, with no intervening action or debate.

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

The resolution (S. Res. 161) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 161

Whereas Robert M. La Follette, Sr., better known as ''Fighting Bob'' La Follette, was born 150 years ago, on June 14, 1855, in Primrose, Wisconsin;

Whereas Fighting Bob was elected to 3 terms in the United States House of Representatives, 3 terms as Governor of Wisconsin, and 4 terms as a United States Senator;

Whereas Fighting Bob founded the Progressive wing of the Republican Party;

Whereas Fighting Bob was a lifelong supporter of civil rights and women's suffrage, earning respect and support from such distinguished Americans as Frederick Douglass and Harriet Tubman Upton;

Whereas Fighting Bob helped to make the ''Wisconsin Idea'' a reality at the Federal and State level, instituting election reforms, environmental conservation, railroad rate regulation, increased education funding, and business regulation;

Whereas Fighting Bob was a principal advocate for the Seventeenth Amendment to the Constitution of the United States, which calls for the election of United States Senators by popular vote;

Whereas Fighting Bob delivered an historic speech, ''Free Speech in Wartime'', opposing the public persecution of those who sought to hold their Government accountable;

Whereas Fighting Bob played a key role in exposing the corruption during the Teapot Dome Scandal;

Whereas Fighting Bob and his wife, Belle Case La Follette, founded La Follette's Weekly, now renamed The Progressive, a monthly magazine for the Progressive community;

Whereas Fighting Bob ran for the presidency on the Progressive ticket in 1924, winning more than 17 percent of the popular vote;

Whereas the Library of Congress recognized Fighting Bob in 1985 by naming the Congressional Research Service reading room in the Madison Building in honor of both Robert M. La Follette, Sr., and his son, Robert M. La Follette, Jr., for their shared commitment to the development of a legislative research service to support the United States Congress;

Whereas Fighting Bob was honored in 1929 with 1 of 2 statues representing the State of Wisconsin in National Statuary Hall in the United States Capitol;

Whereas Fighting Bob was chosen as 1 of ''Five Outstanding Senators'' by the Special Committee on the Senate Reception Room in 1957;

Whereas a portrait of Fighting Bob was unveiled in the Senate Reception Room in March 1959; and

Whereas Fighting Bob was revered by his supporters for his unwavering commitment to his ideals, and for his tenacious pursuit of a more just and accountable Government: Now, therefore, be it

Resolved, That the Senate—

(1) celebrates the sesquicentennial of the birth of Robert M. La Follette, Sr.;

(2) recognizes the important contributions of Robert M. La Follette, Sr., to the Progressive movement, the State of Wisconsin, and the United States of America; and

(3) directs that the Secretary of the Senate transmit an enrolled copy of this resolution to the family of Robert M. La Follette, Sr., and the Wisconsin Historical Society.

ORDERS FOR WEDNESDAY, JUNE 15, 2005

Mr. DOMENICI. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m., Wednesday, June 15. Further, I ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 6, the Energy bill. I further ask consent that the Senate recess from 12:30 p.m. until 2:15 p.m. on tomorrow for the Republican Party luncheon.

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

PROGRAM

Mr. DOMENICI. Mr. President, tomorrow the Senate will resume consideration of the Energy bill. Currently pending is a Schumer second-degree amendment to the underlying Domenici ethanol amendment. We expect a vote in relation to that amendment early tomorrow morning, hopefully by 10 a.m. Senators should take note of that fact. That is a probability, not just a speculation.

For the remainder of the day, we will continue working through the amendments to the bill.

ORDER FOR ADJOURNMENT

Mr. DOMENICI. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator HARKIN for up to 15 minutes, Senator DURBIN for up to 25 minutes, and Senator DODD for up to 10 minutes.

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

Mr. DOMENICI. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I understand the Senator from Connecticut has a short statement. I ask the Senator about how long?

Mr. DODD. About 5 minutes.

Mr. HARKIN. I ask unanimous consent that the Senator from Connecticut be recognized for his statement and then the Senator from Iowa and then the Senator from Illinois.

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

The Senator from Connecticut is recognized for up to 10 minutes, the Senator from Iowa for up to 15 minutes, and the Senator from Illinois for up to 25 minutes.

Mr. DODD. Mr. President, I thank my colleague from Iowa.

NOMINATION OF JOHN BOLTON

Mr. DODD. Mr. President, I wish to take a couple of minutes to review for my colleagues what has transpired over the last several days on the pending matter of the nomination of John Bolton to be our ambassador to the United Nations.

I know there has been a lot of talk about whether goalposts have been moved in our efforts to resolve the outstanding matters concerning information which the Foreign Relations Committee seeks from the administration regarding the Bolton nomination, information that will not be shared with all Members of this body, but shared with the appropriate members of the Intelligence Committee and the chairman and ranking member of the Foreign Relations Committee.

We have not been expanding the goalposts but, rather, shrinking them. I want to review what has happened since April 11, since the issue was first raised regarding the nomination of John Bolton.

There are two issues on which the Senate Foreign Relations Committee seeks additional information. One has to do with 10 intercepts involving the names of 19 Americans that Mr. Bolton sought as the Under Secretary of State. We have tried since April 11, since the issue was raised on April 11, to have the appropriate members of the Foreign Relations Committee and the Intelligence Committee review those intercepts, much as Mr. Bolton did. The administration has refused to allow that to occur.

I then offered as a counterproposal, rather than the appropriate members looking at the intercepts, that at least the names of people we believe may be on those requests from Mr. Bolton be sent down to the administration for them to review. If they are on the list, we would want to pursue that a bit further to find out why Mr. Bolton sought information about them. If they are not, then that would end the matter.

A second matter of equal importance is a request Senator BIDEN has made, and that has to do with draft testimony before the Congress regarding Syria and the possibility of weapons of mass destruction being located in Syria.

Both requests are rather simple to comply with and should not take much time. But my colleagues on both sides ought to be aware that this is now a matter beyond the consideration of Mr. Bolton. Either the Senate has a right to receive pertinent and important information regarding this nomination or it does not.

Certainly my colleagues on both sides of the aisle know historically that other Members have sought information from other administrations they thought was critical to completing their task either on a matter of public policy or a nomination.

As I said earlier, we began on April 11. On April 14 of this year, questions were submitted. Again on April 22. On April 29, Senator BIDEN wrote to the administration requesting information regarding Syria.

On May 4, Senator LUGAR sent letters to Secretary Rice which implied that she need not comply with all of the requests but certainly some of them.

On May 18, Senator BIDEN sent a letter directly to Ambassador Negroponte requesting information regarding the intercepts; again on May 26, on June 1, on June 2, on June 3, on June 8, on June 9, and as late as today on June 14.

There has been a long effort to try and work out some compromise, including the request I made to Mr. Negroponte, to allow us to submit the names. If John Negroponte reported back that there was no correlation between those names and the intercepts sought by Mr. Bolton, then I was going to be satisfied with that answer.

It is ironic, in a way, that the administration is filibustering their own nominee.

I want to get to a vote on John Bolton. We can do it in 24 or 48 hours, in my view, by simply responding to the request we have made, in the modified form we have made it, and responding to Senator BIDEN's request regarding the testimony on Syria. Both of those matters have been sought now for almost 2 months, and yet the administration continues to stonewall on those two requests.

I think it is important that the Senate be heard on these matters. I think it is dangerous for us not to be. There is pertinent information that could relate to the decisions by Senators to vote for or against this nominee.

In short, we have reached out a hand of compromise to the administration. And in response, the administration has given us the back of theirs. They have given us nothing—no counteroffer, just more stonewalling.

It is rather ironic that it is the administration that is filibustering its own nominee.

As my colleagues are well aware, on May 26, just before the Memorial Day recess, the Senate, by a vote of 56 to 42, did not invoke cloture on the motion to proceed to a vote on the nomination of John Bolton to the position of United States Representative to the United Nations.

The reason that the Senate did not invoke cloture was that sufficient numbers of our colleagues have supported the Foreign Relations Committee's efforts to make sure that all relevant information has been made available to the Senate related to this nomination before the Senate casts an up or down vote.

The administration has offered no rationale for refusing to provide the NSA intercepts or the information about the consultant. With regard to the Syria documents, it has argued that they are not relevant to our inquiry. In other words, the administration is telling the Senate what it may investigate. It has also said that providing the information will have a ''chilling effect'' on the deliberative process; yet the committee has already received numerous deliberative process materials.

The administration claims that they have already given the necessary information related to the intercepts request to the committee of jurisdiction, namely the Select Committee on Intelligence.

First, the Bolton nomination is within the jurisdiction of the Foreign Relations Committee, not the Intelligence Committee.

Second, we know from Senators ROBERTS and ROCKEFELLER that General Hayden refused to provide them with the very names that Mr. Bolton and Mr. Bolton's staff were allowed to see.

Moreover, in a letter to the chairman and ranking member of the Foreign Relations Committee, Senator ROCKEFELLER stated that Mr. Bolton may have shared the NSA intercepts with others at State without prior authorization from NSA.

So to be clear, Mr. Bolton was apparently free to share this unedited information with members of his staff, but the chairman and ranking members of the Intelligence and Foreign Relations Committees have been denied access to this same information.

I also want my colleagues to understand that the areas of inquiry that the committee is pursuing were not dreamt up by us last night or last week. The administration has been aware for some time what we were seeking and how strongly we felt about these materials being provided.

Let me lay out the chronology of our requests.

On April 11, during the first hearing on Mr. Bolton, that I first raised questions about the NSA intercepts.

On April 14, I submitted a question for the record inquiring about this Issue.

On April 22, I sent a letter directly to the NSA requesting this information.

On April 29, Senator BIDEN sent a letter, which also requested the information related to Syria.

On May 4, Senator LUGAR sent a letter to Secretary Rice which implied that she should not feel obligated to respond to all of the Committee's requests.

On May 18, Senator BIDEN sent a letter directly to Ambassador Negroponte, our new Director of National Intelligence, requesting these NSA intercepts.

On May 26, he sent a second letter to Negroponte, again making the same request.

On June 1, I called Ambassador Negroponte to offer a proposal for resolving the intercept issue.

On June 2, I sent a letter to Ambassador Negroponte which laid out in writing the June 1 verbal proposal.

On June 3, Ambassador Negroponte called me to say, ''no deal.''

On June 8, Senator ROBERTS approached me and suggested that pursuing my idea of a giving a list of names to the administration might bear fruit. He also proposed a role for the Select Committee on Intelligence in the process. That seemed reasonable to me. After consultation with Senator BIDEN he did, too.

On June 9, Senator BIDEN and I sent a letter laying out our understanding on how names might be provided to the administration, and what the role for the chair and cochair might be in the process.

On June 14, Senator ROBERTS replied in writing to our letter saying he could not support our proposal. I would add that our colleague Senator ROCKEFELLER has said he believes our proposal is eminently reasonable.

Through all of this, no one from the White House has contacted me or my colleague Senator BIDEN to offer any proposal for moving this process along.

In short, the administration has made no effort to meet Senator BIDEN and me halfway or even one-quarter of the way. The answer is either no or even worse, silence.

I ask my colleagues: If there is nothing in all of these documents, why have they not been provided? If there is nothing in them, then surely, providing them would clear up some of our concerns rather quickly. And make it possible to move forward with an up or down vote on the nomination.

And so if there is culpability for the delay in the Senate's consideration of the Bolton nomination, that culpability rests with the Bush administration. They have the ability to unlock this nomination by cooperating with this Senate as they did during the consideration of nominations during President Bush's first term in office.

I stand ready to listen to any proposal from the administration to resolve this matter. I know my colleague Senator BIDEN does as well. But the institutional prerogatives of the Senate are at stake here, and I believe we have the responsibility of protecting those prerogatives for this Congress and future Congresses. I am pleased and grateful that sufficient numbers of our colleagues appear to feel the same way.

I hope all Senators, regardless of whether they believe John Bolton will be a great man at the United Nations or not, realize this is a matter of constitutional equity. Either the Senate, as a coequal branch of Government, has the right to request and receive through appropriate Members and appropriate committees pertinent information relating to a critical nomination or not, and if we do not, then I think this body suffers in its ability to perform its constitutional duties.

That is what we are requesting. It can be satisfied in a matter of hours, and then the Senate, as a body, can vote up or down on John Bolton to send him to the U.N. or not send him to the U.N. But to stonewall this institution on information we have a right to receive I think is wrong and I think it jeopardizes the relationship between the Senate and the White House.

My hope is the White House will respond to the modified requests we have made so we can get about the business of voting on this nomination and moving to other matters before the Senate.

I thank my colleagues from Iowa and Illinois for being generous with their time.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 15 minutes.

RENEWABLE FUEL STANDARD

Mr. HARKIN. Mr. President, this is, indeed, an exciting time and moment. We have an 8-billion-gallon national renewable fuel standard that is going to be part of the Senate Energy bill. A previous bill I sponsored with Senator LUGAR and 18 other Senators serves as much of the basis for what we now have before us. This amendment takes us a bold step closer to improving the Nation's energy security, domestic and farm economy, and our environment.

To say we have a growing problem with energy in this country is an understatement. Today, about 97 percent of our transportation fuel comes from oil, two-thirds of that from foreign sources. This excessive dependence on petroleum undermines our national security, as we all know, and it reeks havoc on consumers who are now dealing with record-high gasoline prices. Our policy today costs us jobs. There are 27,000 lost U.S. jobs for every $1 billion in imported oil. Our present policy damages our environment with fully one-third of the greenhouse gases now coming from vehicle emissions alone.

And the truth is, the problem is not going away, it is only getting worse.

Right now we are importing 60 percent of our oil from foreign countries. That percent is expected to increase, not decrease, to about 70 percent by 2025.

According to the Natural Resources Defense Council, America spends $200,000 per minute on foreign oil, or $13 million an hour. And more than $25 billion goes to the Persian Gulf imports alone. A study by the Department of Energy found that our dependency on oil from unsteady regimes outside our borders has cost the country an astonishing $7 trillion over the last 30 years, measured in current dollars.

If these figures are not disturbing enough, here is one more. According to the National Defense Council Foundation, the economic penalties of America's oil dependence are between $297 billion to $304 billion annually.

The Institute for the Analysis of Global Security, using this data, calculated the hidden costs at the gas pump. Everyone thinks we are paying around—I heard my friend from New York say in New York the price of gas is $2.25, in Iowa it is around $2.03, $2.05, and around here it is about $2.10 a gallon. That is what we think we are paying. But the Institute for the Analysis of Global Security, using the data about the hidden costs, has determined that the real cost of a gallon of gas at the pump is more than $7 a gallon. A typical tankful of gas really would cost more than $140.

What are those hidden costs? Add up what we are spending in the military alone in the Mideast and you come pretty close to the figure.

We have a choice. We can stand by, feed our addiction to foreign oil, or we can make a decisive shift now toward clean domestic renewable fuels such as ethanol and biodiesel. This will allow us to wean the U.S. economy from its dangerous level of dependence on foreign oil that is a clear and present danger to our economy and national security.

The renewable fuels standard will more than double the amount of ethanol and biodiesel in our fuel supply by 2012. It will firmly commit our Nation to clean, secure, diversified sources of domestic energy, not in some distant future but immediately in the years ahead.

Domestic ethanol production grew 21 percent in 2004 to more than 3.4 billion gallons. I might just add, ethanol was introduced seamlessly in California and New York, where it helped to buffer rising crude oil prices.

I know my good friend from New York had to leave, but I have since found out that right now there are two large production ethanol plants planned for construction in the State of New York; two big ones, one that is 100 million gallons a year, the other a bit smaller, being constructed right now in New York and more to come online later on.

Why is that? Because the technology is developing at a rapid pace to produce ethanol, not just from corn or sugar but from underutilized materials such as cornstalks, wood waste, cellulosic material, all kinds of biomass feedstocks.

So what we are doing makes sense. With an 8-billion-gallon renewable fuels standard, we establish a strong floor for the time frame under consideration. The fact is, we will have no trouble whatsoever producing enough ethanol to meet this standard. As I said, the industry already has the capacity to produce nearly 4 billion gallons of ethanol a year.

I will be frank. A lot of this does come from my State of Iowa. We lead

the Nation in biofuels production. I am proud of that. I am proud of the fact that 11 of the 16 ethanol plants in my State are predominantly owned by farmers. We have biodiesel plants as well. Biofuels plants are being built in many other places, too, but also in my State.

These farmer-owned biofuels plants are adding value to our rural economies. According to a recent study, each typical ethanol plant creates 700 jobs, expands the local economic base by more than $140 million, and provides an average 13-percent annual return on investment over 10 years to a farmer investor.

Iowa's 16 ethanol plants and 3 biodiesel plants, with more on the way, serve as local engines of economic growth. Our ethanol plants are expected to contribute $4 billion annually to the State's economy once all are in production, with more than 5,000 direct and indirect jobs. Once all of the plants are online, the industry will utilize about 500 million bushels of Iowa corn each year.

That was just for Iowa. Nationally, this renewable fuels standard is expected to create over 200,000 new jobs and add nearly $200 billion to our gross domestic product. Within 10 years, this standard will replace more than 3 billion barrels of foreign oil, more to reduce import dependence over this time than the economically recoverable oil in the Alaska National Wildlife Refuge, before production even begins there.

I say again to my friend from New York, there is a choice. We can continue to spend our money—approximately $25 billion a year—in the Persian Gulf, or we can start spending it at home, not just in Iowa but in Georgia, New York, Illinois, and all over this country, where we are going to see these plants being built.

So we know that renewable fuels are good products. We know we can meet the demand. We know that it will help us in a lot of ways.

The Consumer Federation of America came out with a study just a month ago that found consumers could save as much as 8 cents per gallon if more ethanol were blended into the Nation's fuel supply. Well, I bet my friend's moms who are driving kids to school, as he mentioned, would like to save 8 cents per gallon as they buy their gasoline.

A story in the New York Times over the weekend reported that consumers in my home State of Iowa are saving up to 10 cents per gallon with ethanol blended gasoline. I will bet consumers in other States would like to have that same savings.

I have heard one other comment made about this renewable fuels issue saying it is going to be bad for the environment. That is not true. First, it is renewable. It is made from homegrown renewable materials, not pumped out of wells half a world away and shipped to us. When is the last time one ever heard about an ethanol spill killing birds, marine life, or polluting coastlines? The answer is never, and it never will happen because ethanol is nontoxic and it is biodegradable.

Here is something else that my colleagues hear a lot about, that it takes more energy to produce it then is gotten out of it. Again, nonsense. Ethanol is energy efficient. Every 100 Btus of energy used to produce ethanol—that includes the planting, the harvesting, the cultivating, the processing—yields 135 Btus of ethanol. So 100 Btus in, 135 out. By comparison, the same 100 Btus of energy used in the transportation, shipping, and refining of oil yields only 85 Btus in gasoline.

Someone might ask: Well, why is that? Very simply, sunlight is free. The rain is free. These things grow. Sunlight and nature are being used as free assets to get ethanol. So just from an energy efficiency standpoint, we ought to be moving ahead aggressively.

Lastly, my friend also said something about emissions. Well, the fact is ethanol reduces key emissions such as carbon monoxide, particulates that cause smog. In a recent study by the Argonne National Lab, ethanol was found to significantly lower carbon dioxide emissions, the main gas contributing to global warming.

A lot of people in this body want to address the issue of climate change. Yet some fail to see how biofuels are an essential component of any greenhouse gas emissions reduction strategy. Keep in mind, when ethanol is burned, is carbon dioxide being put out there? Yes, it is. So you might say that adds to greenhouse gases, but keep in mind, that the corn plant or that tree or whatever it is that is grown that one gets the ethanol out of, it is taking carbon dioxide out of the air. Not true of the oil that is pumped out of the ground. It puts carbon dioxide into the air but never takes it out. That is why renewable fuels are so important for our environment. Yes, it would put carbon dioxide in the air, but as it grows, using that sunlight and rain to grow, it takes carbon dioxide out.

The renewable fuels standard is sound public policy. It is a key part of any plan to wean our Nation off of foreign oil. Contrary to what my friend from New York said—I am sorry he had to leave—there is a built-in flexibility through a system of tradable credits for oil refiners who exceed their minimum requirement. It includes waiver language from the requirements of the renewable fuels standard for a region or a State if circumstances warrant it. It rewards production of emerging biofuels such as cellulosic ethanol that provide tremendous value to our country, our farmers, and the environment.

Again, these and other provisions are all in the renewable fuels standard amendment that is being offered to the energy bill. That is why it is so important that we keep the standard in there, that we move ahead, wean ourselves off of Persian Gulf oil, clean up the environment, and put the money in this country. Let us spend our money developing energy in America rather than over in the Persian Gulf.

I yield the floor, and I thank my colleague from Illinois.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Illinois is recognized for up to 25 minutes.

Mr. DURBIN. Let me thank my colleague from Iowa. He and I have something in common: We are interested in alcohol fuels, ethanol and diesel. We understand these are homegrown. You don't have to wait for the OPEC cartel to decide to send them to you. We grow the corn in the field, and one out of every six bushels of corn that is grown in America creates ethanol, alcohol fuel.

Earlier, my colleague and friend from New York was talking about, What could this possibly mean to farmers? He doesn't understand the mechanics of the market. More demand raises prices. Demand for corn to use it to create ethanol and alcohol fuels will help farmers. As farmers receive higher prices for their corn, there are lower payments in the Federal programs. The taxpayers are going to benefit as well.

Mr. HARKIN. That is right.

Mr. DURBIN. What the Senator from New York failed to note—and I was about to interrupt him, but since I live with him, I interrupt him all the time—I just live with him in Washington, incidentally; there is a family situation otherwise. What I was going to remind him was when these trucks are coming in with ethanol into New York and getting stalled in traffic and burning up their fuel, if they have ethanol in their tanks, there is less pollution in his beautiful New York City. So we have another added benefit here—not just more income for farmers and less in payments by taxpayers for farm programs but cleaner air and less dependence on foreign oil.

I hope Senator HARKIN and I can take this on as a class project, to try to work on Senator SCHUMER from New York. He is a very delightful man and does a great job for his State, but he needs some very fundamental education on corn and ethanol and what it means for America.

Mr. HARKIN. I join with the Senator. We will do a little educating for him.

Mr. DURBIN. This is probably a task we should not undertake because it is momentous, but we will try anyway. This is the Energy bill. It is a big bill, as you can tell. I sat down and did something kind of unique: I decided to read it, just to decide what we are voting on. I don't say that entirely in a negative fashion because some of this is so technical, you need to have staff go through and figure out exactly what is happening in this bill.

The one thing that is most important about this bill is not the fact that Senator DOMENICI of New Mexico has worked so hard on it with Senator BINGAMAN and done such a good job on a bipartisan basis to bring it to us. That is a positive thing, and I complimented Senator DOMENICI about it

earlier. What is troubling about this bill is it is setting out to establish:

the enhancement of the energy security of the United States.

Since it is setting out to establish America's energy policy, you would think to yourself, How do most Americans come in contact with energy each day? Certainly when you flip the lights on in the morning or in the evening, you come in contact with electricity, but equally so, when you get into that car or into that truck or on that bus, you are in contact with the energy policy of America.

If that is an important part of our life experience with energy, if over 60 percent of all the oil we bring into the United States is used to fuel vehicles, trucks and cars, you would just assume that a large part of this bill of almost 800 pages must be devoted to the whole question of the fuel efficiency of cars and trucks. Isn't that obvious? Wouldn't that be one of the first things?

Sadly, you are going to have to search long and hard to find any reference in here to the fuel economy and fuel efficiency of cars and trucks in America. The question I have asked over and over again is, How can you have an honest energy policy for America and not talk about that? How can you really have a policy that reduces our dependence on foreign oil if we do not talk about more fuel-efficient cars and trucks—more conservation?

I don't think you can. The only provision in this bill that addresses that, in the most indirect and oblique way, says that over the next 10 years, we will reduce the demand for oil in America by 1 million barrels a day. That is a good thing. I support that. It doesn't spell out how we will do it. Frankly, it doesn't reflect the ambition we should have in putting together this bill because we can do better. We can do a lot better.

Tomorrow, Senator MARIA CANTWELL of Washington is going to offer the amendment from the Democratic side about energy policy. It is our lead amendment. The reason it is our lead amendment is we believe it gets to the heart of the question. Here is what we believe in our Democratic Senate caucus. We think we should add to this bill language which says: Over the next 20 years, we will reduce our dependence on foreign oil in America by 40 percent.

Frankly, I think we can do better, but we establish a standard of 40 percent. Today, 58 percent of all of the oil that we burn each day in America comes from overseas—58 percent. Unchecked, unchanged, it is estimated that in 20 years, it will be 68 percent. More than two out of every three barrels of oil will be imported into the United States.

If the Democratic amendment is adopted—and I hope it is, on a bipartisan basis—if we reduce the foreign imports by 40 percent over the next 20 years, the number will go from 58 percent to 56 percent. That is still too high, but to do nothing means that our dependence on foreign oil will grow.

Depending on foreign oil means depending on the people who own it. I do not want my future, the future of my children or grandchildren, in the hands of the Saudi Royal Family. That is what their future will be tied to—in a world where there will be even more competition over OPEC oil.

You cannot pick up a magazine or an article anywhere that does not refer to the growth of China and its economy. They are just sucking away jobs from America, to paraphrase Ross Perot, and creating new opportunities for jobs in a country that is deficient in energy. So they are looking all over the world to find where they can import gas and oil so they can fuel the growing Chinese economy.

What it means, of course, is China will be our competitor for that oil in the years to come. If we do not take care to reduce our dependence on foreign oil, we will find ourselves in a predicament even worse than today, where the cost of oil will be increasing because of increased demand for limited resources, and our dependence will be increasing at the same time. What a recipe for economic disaster in America.

I will tell you one thing that is troubling. Remember the only provision in this bill related to fuel efficiency that I mentioned earlier that wants to reduce our dependence on foreign oil by a million barrels a day? We just got an official statement from the Bush White House today—they oppose that provision. They want to take it out of the bill. That is the only provision in the bill relative to fuel efficiency and fuel economy, and they want to have it taken out of the bill.

This is the same administration that does not concede the fact that there is global warming, the same administration which last week had to dismiss a man who was doctoring environmental documents and statements to make it look as if there is no threat of global warming. This same administration says they want to take out the only provision in the bill that would move us toward less dependence on foreign oil. What are they thinking? This is the leadership in the White House?

The President can walk, literally hand in hand, with a Saudi prince at his ranch in Texas, but does America want to walk hand in hand with a Saudi prince for the next 20 years? Not me—no. I want to see us move toward energy independence. It is not likely we will reach it in its entirety in my lifetime, but don't we owe it to future generations to lessen our dependence on foreign oil?

Which moves me to a second topic, which is related. That dependence on foreign oil draws us into a lot of predicaments around the world. Ask the 150,000 American soldiers in Iraq today. Ask whether we would be as focused as we are on the Middle East and its stability if we were not dependent on those oil tankers every single day leaving that Arabian peninsula, the Arabian area, coming into the United States with this oil we need so desperately. I do not think it is likely we would be there with that much intensity of feeling. But we are there.

Because of our dependence on foreign oil, we have been drawn into a conflict, now more than 2 years in length, with no end in sight. I was one of 23 Senators who voted against the Use of Force Resolution that authorized President Bush to invade Iraq. That was not because I had any sympathy for Saddam Hussein—I never have had—but because I believed this administration had misled the American people about the real threat in Iraq. It turns out afterward we were misled, there were no weapons of mass destruction, no nuclear weapons, no connection with 9/11. It turns out the threats we were told existed did not exist. The American people were misled.

Sadly, this administration took the best military in the world and invaded Iraq and very quickly made short order of Saddam Hussein and his troops but didn't know what to do next. They won the war. They couldn't figure out how to win the peace. And we still pay the heaviest possible price every single day because of their lack of preparedness.

Think about it. Over the weekend, the number of American soldiers killed in Iraq in combat now has reached about 1,700—1,700 of our sons and daughters have given their lives in Iraq, with no end in sight. Soldiers sent into battle by an administration which has received every penny they have asked for from Congress to supply our troops. Soldiers sent into battle, killed, still today, in unarmored humvees. Soldiers without body armor. Soldiers without the proper equipment.

I have been there. I have seen it. I have heard it. I have talked to these soldiers. I know a few weeks ago in Iraq this was the case. That, to me, is a tragedy and a travesty.

What is also troubling is that this Congress is afraid to even ask the hard questions of this administration. When was the last time we had a serious hearing on Capitol Hill about the contract abuses of Halliburton in Iraq? We will have to search the CONGRESSIONAL RECORD long and hard to find there has not been such a hearing. We do not get into that issue. When was the last time we had a hearing on Capitol Hill about the serious problems we are having in recruiting new soldiers, marines, sailors, and airmen? That is a big problem. The best military in the world needs the best men and women. Why is it they will not join the ranks to fight in this war in Iraq and Afghanistan? That is worth a hearing, isn't it? We are still waiting for it.

There will be a hearing tomorrow—and I commend the chairman of the Senate Judiciary Committee, Senator Arlen Specter—to discuss some of the basic issues about a very serious problem that we face.

Mr. President, there has been a lot of discussion in recent days about whether to close the detention center at Guantanamo Bay. This debate misses the point. It is not a question of whether detainees are held at Guantanamo Bay or some other location. The question is how we should treat those who have been detained there. Whether we treat them according to the law or not does not depend on their address. It depends on our policy as a nation.

How should we treat them? This is not a new question. We are not writing on a blank slate. We have entered into treaties over the years, saying this is how we will treat wartime detainees. The United States has ratified these treaties. They are the law of the land as much as any statute we passed. They have served our country well in past wars. We have held ourselves to be a civilized country, willing to play by the rules, even in time of war.

Unfortunately, without even consulting Congress, the Bush administration unilaterally decided to set aside these treaties and create their own rules about the treatment of prisoners.

Frankly, this Congress has failed to hold the administration accountable for its failure to follow the law of the land when it comes to the torture and mistreatment of prisoners and detainees.

I am a member of the Judiciary Committee. For two years, I have asked for hearings on this issue. I am glad Chairman SPECTER will hold a hearing on wartime detention policies tomorrow. I thank him for taking this step. I wish other members of his party would be willing to hold this administration accountable as well.

It is worth reflecting for a moment about how we have reached this point. Many people who read history remember, as World War II began with the attack on Pearl Harbor, a country in fear after being attacked decided one way to protect America was to gather together Japanese Americans and literally imprison them, put them in internment camps for fear they would be traitors and turn on the United States. We did that. Thousands of lives were changed. Thousands of businesses destroyed. Thousands of people, good American citizens, who happened to be of Japanese ancestry, were treated like common criminals.

It took almost 40 years for us to acknowledge that we were wrong, to admit that these people should never have been imprisoned. It was a shameful period in American history and one that very few, if any, try to defend today.

I believe the torture techniques that have been used at Abu Ghraib and Guantanamo and other places fall into that same category. I am confident, sadly confident, as I stand here, that decades from now people will look back and say: What were they thinking? America, this great, kind leader of a nation, treated people who were detained and imprisoned, interrogated people in the crudest way? I am afraid this is going to be one of the bitter legacies of the invasion of Iraq.

We were attacked on September 11, 2001. We were clearly at war.

We have held prisoners in every armed conflict in which we have engaged. The law was clear, but some of the President's top advisers questioned whether we should follow it or whether we should write new standards.

Alberto Gonzales, then-White House chief counsel, recommended to the President the Geneva Convention should not apply to the war on terrorism.

Colin Powell, who was then Secretary of State, objected strenuously to Alberto Gonzales' conclusions. I give him credit. Colin Powell argued that we could effectively fight the war on terrorism and still follow the law, still comply with the Geneva Conventions. In a memo to Alberto Gonzales, Secretary Powell pointed out the Geneva Conventions would not limit our ability to question the detainees or hold them even indefinitely. He pointed out that under Geneva Conventions, members of al-Qaida and other terrorists would not be considered prisoners of war.

There is a lot of confusion about that so let me repeat it. The Geneva Conventions do not give POW status to terrorists.

In his memo to Gonzales, Secretary Powell went on to say setting aside the Geneva Conventions ''will reverse over a century of U.S. policy and practice . . . and undermine the protections of the law of war for our own troops . . . It will undermine public support among critical allies, making military cooperation more difficult to sustain.''

When you look at the negative publicity about Guantanamo, Secretary Colin Powell was prophetic.

Unfortunately, the President rejected Secretary Powell's wise counsel, and instead accepted Alberto Gonzales' recommendation, issuing a memo setting aside the Geneva Conventions and concluding that we needed ''new thinking in the law of war.''

After the President decided to ignore Geneva Conventions, the administration unilaterally created a new detention policy. They claim the right to seize anyone, including even American citizens, anywhere in the world, including in the United States, and hold them until the end of the war on terrorism, whenever that may be.

For example, they have even argued in court they have the right to indefinitely detain an elderly lady from Switzerland who writes checks to what she thinks is a charity that helps orphans but actually is a front that finances terrorism.

They claim a person detained in the war on terrorism has no legal rights—no right to a lawyer, no right to see the evidence against them, no right to challenge their detention. In fact, the Government has claimed detainees have no right to challenge their detention, even if they claim they were being tortured or executed.

This violates the Geneva Conventions, which protect everyone captured during wartime.

The official commentary on the convention states:

> Nobody in enemy hands can fall outside the law.

That is clear as it can be. But it was clearly rejected by the Bush administration when Alberto Gonzales as White House counsel recommended otherwise.

U.S. military lawyers called this detention system ''a legal black hole.'' The Red Cross concluded, ''U.S. authorities have placed the internees in Guantanamo beyond the law.''

Using their new detention policy, the administration has detained thousands of individuals in secret detention centers all around the world, some of them unknown to Members of Congress. While it is the most well-known, Guantanamo Bay is only one of them. Most have been captured in Afghanistan and Iraq, but some people who never raised arms against us have been taken prisoner far from the battlefield.

Who are the Guantanamo detainees? Back in 2002, Secretary Rumsfeld described them as ''the hardest of the hard core.'' However, the administration has since released many of them, and it has now become clear that Secretary Rumsfeld's assertion was not completely true.

Military sources, according to the media, indicate that many detainees have no connection to al-Qaida or the Taliban and were sent to Guantanamo over the objections of intelligence personnel who recommended their release. One military officer said:

> We're basically condemning these guys to a long-term imprisonment. If they weren't terrorists before, they certainly could be now.

Last year, in two landmark decisions, the Supreme Court rejected the administration's detention policy. The Court held that the detainees' claims that they were detained for over two years without charge and without access to counsel ''unquestionably describe custody in violation of the Constitution, or laws or treaties of the United States.''

The Court also held that an American citizen held as an enemy combatant must be told the basis for his detention and have a fair opportunity to challenge the Government's claims. Justice Sandra Day O'Connor wrote for the majority:

> A state of war is not a blank check for the President when it comes to the rights of the Nation's citizens.

You would think that would be obvious, wouldn't you? But yet, this administration, in this war, has viewed it much differently.

I had hoped the Supreme Court decision would change the administration policy. Unfortunately, the administration has resisted complying with the Supreme Court's decision.

The administration acknowledges detainees can challenge their detention in court, but it still claims that once they get to court, they have no legal rights. In other words, the administration believes a detainee can get to the courthouse door but cannot come inside.

A Federal court has already held the administration has failed to comply with the Supreme Court's rulings. The court concluded that the detainees do have legal rights, and the administration's policies ''deprive the detainees of sufficient notice of the factual bases for their detention and deny them a fair opportunity to challenge their incarceration.''

The administration also established a new interrogation policy that allows cruel and inhuman interrogation techniques.

Remember what Secretary of State Colin Powell said? It is not a matter of following the law because we said we would, it is a matter of how our troops will be treated in the future. That is something often overlooked here. If we want standards of civilized conduct to be applied to Americans captured in a warlike situation, we have to extend the same manner and type of treatment to those whom we detain, our prisoners.

Secretary Rumsfeld approved numerous abusive interrogation tactics against prisoners in Guantanamo. The Red Cross concluded that the use of those methods was ''a form of torture.''

The United States, which each year issues a human rights report, holding the world accountable for outrageous conduct, is engaged in the same outrageous conduct when it comes to these prisoners.

Numerous FBI agents who observed interrogations at Guantanamo Bay complained to their supervisors. In one e-mail that has been made public, an FBI agent complained that interrogators were using ''torture techniques.''

That phrase did not come from a reporter or politician. It came from an FBI agent describing what Americans were doing to these prisoners.

With no input from Congress, the administration set aside our treaty obligations and secretly created new rules for detention and interrogation. They claim the courts have no right to review these rules. But under our Constitution, it is Congress's job to make the laws, and the court's job to judge whether they are constitutional.

This administration wants all the power: legislator, executive, and judge. Our founding father were warned us about the dangers of the Executive Branch violating the separation of powers during wartime. James Madison wrote:

> The accumulation of all powers, legislative, executive, and judiciary, in the same hands may justly be pronounced the very definition of tyranny.

Other Presidents have overreached during times of war, claiming legislative powers, but the courts have reined them back in. During the Korean war, President Truman, faced with a steel strike, issued an Executive order to seize and operate the Nation's steel mills. The Supreme Court found that the seizure was an unconstitutional infringement on the Congress's lawmaking power. Justice Hugo Black, writing for the majority, said:

> The Constitution is neither silent nor equivocal about who shall make the laws which the President is to execute . . . The Founders of this Nation entrusted the lawmaking power to the Congress alone in both good times and bad.

To win the war on terrorism, we must remain true to the principles upon which our country was founded. This Administration's detention and interrogation policies are placing our troops at risk and making it harder to combat terrorism.

Former Congressman Pete Peterson of Florida, a man I call a good friend and a man I served with in the House of Representatives, is a unique individual. He is one of the most cheerful people you would ever want to meet. You would never know, when you meet him, he was an Air Force pilot taken prisoner of war in Vietnam and spent 6½ years in a Vietnamese prison. Here is what he said about this issue in a letter that he sent to me. Pete Peterson wrote:

> From my 6½ years of captivity in Vietnam, I know what life in a foreign prison is like. To a large degree, I credit the Geneva Conventions for my survival. . . . This is one reason the United States has led the world in upholding treaties governing the status and care of enemy prisoners: because these standards also protect us. . . . We need absolute clarity that America will continue to set the gold standard in the treatment of prisoners in wartime.

Abusive detention and interrogation policies make it much more difficult to win the support of people around the world, particularly those in the Muslim world. The war on terrorism is not a popularity contest, but anti-American sentiment breeds sympathy for anti-American terrorist organizations and makes it far easier for them to recruit young terrorists.

Polls show that Muslims have positive attitudes toward the American people and our values. However, overall, favorable ratings toward the United States and its Government are very low. This is driven largely by the negative attitudes toward the policies of this administration.

Muslims respect our values, but we must convince them that our actions reflect these values. That's why the 9/11 Commission recommended:

> We should offer an example of moral leadership in the world, committed to treat people humanely, abide by the rule of law, and be generous and caring to our neighbors.

What should we do? Imagine if the President had followed Colin Powell's advice and respected our treaty obligations. How would things have been different?

We still would have the ability to hold detainees and to interrogate them aggressively. Members of al-Qaida would not be prisoners of war. We would be able to do everything we need to do to keep our country safe. The difference is, we would not have damaged our reputation in the international community in the process.

When you read some of the graphic descriptions of what has occurred here—I almost hesitate to put them in the RECORD, and yet they have to be added to this debate. Let me read to you what one FBI agent saw. And I quote from his report:

> On a couple of occasions, I entered interview rooms to find a detainee chained hand and foot in a fetal position to the floor, with no chair, food or water. Most times they urinated or defecated on themselves, and had been left there for 18–24 hours or more. On one occasion, the air conditioning had been turned down so far and the temperature was so cold in the room, that the barefooted detainee was shaking with cold. . . . On another occasion, the [air conditioner] had been turned off, making the temperature in the unventilated room well over 100 degrees. The detainee was almost unconscious on the floor, with a pile of hair next to him. He had apparently been literally pulling his hair out throughout the night. On another occasion, not only was the temperature unbearably hot, but extremely loud rap music was being played in the room, and had been since the day before, with the detainee chained hand and foot in the fetal position on the tile floor.

If I read this to you and did not tell you that it was an FBI agent describing what Americans had done to prisoners in their control, you would most certainly believe this must have been done by Nazis, Soviets in their gulags, or some mad regime—Pol Pot or others—that had no concern for human beings. Sadly, that is not the case. This was the action of Americans in the treatment of their prisoners.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DURBIN. Mr. President, I ask unanimous consent for 3 additional minutes.

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

Mr. DURBIN. It is not too late. I hope we will learn from history. I hope we will change course. The President could declare the United States will apply the Geneva Conventions to the war on terrorism. He could declare, as he should, that the United States will not, under any circumstances, subject any detainee to torture, or cruel, inhuman, or degrading treatment. The administration could give all detainees a meaningful opportunity to challenge their detention before a neutral decisionmaker.

Such a change of course would dramatically improve our image and it would make us safer. I hope this administration will choose that course. If they do not, Congress must step in.

The issue debated in the press today misses the point. The issue is not about closing Guantanamo Bay. It is not a question of the address of these prisoners. It is a question of how we treat these prisoners. To close down Guantanamo and ship these prisoners off to

undisclosed locations in other countries, beyond the reach of publicity, beyond the reach of any surveillance, is to give up on the most basic and fundamental commitment to justice and fairness, a commitment we made when we signed the Geneva Convention and said the United States accepts it as the law of the land, a commitment which we have made over and over again when it comes to the issue of torture. To criticize the rest of the world for using torture and to turn a blind eye to what we are doing in this war is wrong, and it is not American.

During the Civil War, President Lincoln, one of our greatest Presidents, suspended habeas corpus, which gives prisoners the right to challenge their detention. The Supreme Court stood up to the President and said prisoners have the right to judicial review even during war.

Let me read what that Court said:

The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of its protection all classes of men, at all times, and under all circumstances. No doctrine, involving more pernicious consequences, was ever invented by the wit of man than that any of its provisions could be suspended during any of the great exigencies of government. Such a doctrine leads directly to anarchy or despotism.

Mr. President, those words still ring true today. The Constitution is a law for this administration, equally in war and in peace. If the Constitution could withstand the Civil War, when our Nation was literally divided against itself, surely it will withstand the war on terrorism.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in adjournment until 9:30 a.m., Wednesday, June 15, 2005.

Thereupon, the Senate, at 7:19 p.m., adjourned until Wednesday, June 15, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 14, 2005:

THE JUDICIARY

THOMAS CRAIG WHEELER, OF MARYLAND, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS VICE DIANE GILBERT SYPOLT, RETIRED.

MARGARET MARY SWEENEY, OF VIRGINIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS VICE ROBERT H. HODGES, JR., RETIRED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. NORTON A. SCHWARTZ, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. WILLIAM N. MCCASLAND, 0000

IN THE ARMY

THE FOLLOWING ARMY RESERVE OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTIONS 1552 AND 12203:

To be brigadier general

COL. GILBERTO S. PENA, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RODNEY J. BARHAM, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER WHO IS CURRENTLY IN THE UNITED STATES ARMY RETIRED RESERVE FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 1552 AND 12203:

To be brigadier general

COL. LARRY L. ARNETT, 0000

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER, WHO IS CURRENTLY IN THE UNITED STATES ARMY RETIRED RESERVE, FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTIONS 1552 AND 12203:

To be brigadier general

COL. OTIS P. MORRIS, 0000

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED UNDER TITLE 10, U.S.C. SECTION 5046:

To be brigadier general

COL. JAMES C. WALKER, 0000

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

RICHARD W. HAUPT, 0000
DANIEL J. HERNANDEZ, 0000
GREGORY L. HICKS, 0000
ROBERT S. MEHAL, 0000
ALVIN A. PLEXICO, JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

RONALD M. BISHOP, JR., 0000
DANIEL J. CHISHOLM, 0000
WILLIAM S. DILLON, 0000
MICHAEL J. HARMAN, 0000
SCOTT M. HERZOG, 0000
MARK A. HUNT, 0000
ALBERT G. MOUSSEAU, JR., 0000
PETER S. OLEP, 0000
ANGELO R. L. SMITHA, 0000
NORMAN M. TOBLER II, 0000
ANTHONY S. VIVONA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CHERYL J. COTTON, 0000
MARY L. DIAZ, 0000
TIFFANY M. GRAVEDEPERALTA, 0000
CAROL M. KUSHMIER, 0000
JANET E. LOMAX, 0000
ROMUEL B. NAFARRETE, 0000
THOMAS G. ROULSTON, 0000
STUART C. SATTERWHITE, 0000
CHARMAINE Y. SAVAGE, 0000
ERIN G. SNOW, 0000
LISA M. TRUESDALEHERBERT, 0000
TRACY D. WHITELEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

ALBERT R. COSTA, 0000
JOHN S. CRAWMER, 0000
JOHN M. FARWELL, 0000
GARY L. HACKADAY, 0000
TERRENCE E. HAMMOND, 0000
BRIAN K. JACOBS, 0000
EDGAR LUCAS, 0000
BARBARA J. MYTYCH, 0000
JAMES M. PARISH, 0000
TIMOTHY H. PFANNENSTEIN, 0000
JOSEPH A. RODRIGUEZ, 0000
SCOTT A. SAMPLES, 0000
EUGENE A. SANTIAGO, 0000
CHRISTOPHER S. WIRTH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DAVID J. BYERS, 0000
BRIAN D. CONNON, 0000
RAYMOND R. DELGADO III, 0000
DANIEL P. ELEUTERIO, 0000
JOHN A. FURGERSON, 0000
DENISE M. KRUSE, 0000
STEPHEN D. MARTIN, 0000
DAVID W. MCDOWELL, 0000
HENRY A. MILLER, 0000
OSCAR E. MONTERROSA, 0000
JOHN A. OKON, 0000
DAVID M. RUTH, 0000
PETER J. SMITH, 0000
MARC T. STEINER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JASON W. CARTER, 0000
MARK G. FICKEL, 0000
MARIE T. GORDON, 0000
MICHELLE R. HILLMEYER, 0000
VIRGINIA T. LAMB, 0000
THOMAS W. LECHLEITNER, JR., 0000
JEFFREY B. LITTLE, 0000
JOHN A. MACDONALD, 0000
MARIANNA B. MAGNO, 0000
MARGARET L. MARSHALL, 0000
JAMES H. MILLS, 0000
SHAWN P. MURPHY, 0000
VERONIQUE L. STREETER, 0000
JESSICA A. SZEMKOW, 0000
JOHN A. WATKINS, 0000
DAVID G. WIRTH, 0000
LAURA G. YAMBRICK, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

CLIFFORD W. BEAN III, 0000
LYNN T. CHOW, 0000
CHRISTOPHER A. CHRISLIP, 0000
MICHAEL A. CONNER, 0000
JAMES C. DIFFELL, 0000
JEFFREY W. GRAY, 0000
ANTHONY P. HANSEN, 0000
BARBARA L. LOPEZ, 0000
BRYAN S. LOPEZ, 0000
ERIC F. MANNING, 0000
KEVIN K. MISSEL, 0000
ABRAHAM K. MITCHELL, 0000
WILLIAM K. MORENO, 0000
JOSEPH P. PUGH, 0000
JEFFREY S. SCHEIDT, 0000
GEORGE F. TRICE, JR., 0000
DONNA M. YOUNG, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

THOMAS J. ANDERSON, 0000
JESS W. ARRINGTON, 0000
MICHAEL J. BARETELA, 0000
BRADFORD P. BITTLE, 0000
SCOTT M. BROWN, 0000
DANNY K. BUSCH, 0000
EUGENE C. CANFIELD, 0000
JOHN A. CHRISTENSEN, 0000
WILLIAM E. COBB, 0000
MICHAEL J. DUFEK, 0000
MARK V. GLOVER, 0000
DARLENE K. GRASDOCK, 0000
DARREN S. HARVEY, 0000
HUGH J. HUCK III, 0000
JAMES K. KALOWSKY, 0000
MARK A. LEARY, 0000
RUSSELL E. LEGEAR, 0000
KEITH W. LEHNHARDT, 0000
JOHN J. LUND, 0000
GERALD W. MACKAMAN, 0000
ERIK H. MARTIN, 0000
WILLIAM B. MCNEAL, 0000
CASEY J. MOTON, 0000
MARK H. OESTERREICH, 0000
DOUGLAS B. OGLESBY, 0000
KEITH A. PETERSON, 0000
ROBERT D. PHILLIPS, 0000
AMY J. POTTS, 0000
DAVID J. PRICE, 0000
JOSEPH P. REASON, JR., 0000
PETER J. RYAN, JR., 0000
JAMES R. SMITH, 0000
JOHN W. SPRAGUE, 0000
JOHN J. SZATKOWSKI, 0000
MARK E. THORNELL, 0000
ALLAN R. WALTERS, 0000
MICHAEL ZIV, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JASON L. ANSLEY, 0000
CARLTON R. BLOUNT, 0000
CHRISTOPHER C. BONE, 0000
STEVEN C. BORAZ, 0000
SCOTT E. BREES, 0000
DAVID C. CRISSMAN, 0000

JAMES EASAW, 0000
DAVID B. EDWARDS, 0000
ROBERT J. ENGELHARDT, 0000
DAVID M. FLOWERS, 0000
MAUREEN FOX, 0000
BRENT S. FREEMAN, 0000
WILLIAM P. GARRITY, JR., 0000
CONSTANCE M. GREENE, 0000
MICHAEL J. HANNAN, 0000
TAMARA L. S. HARSTAD, 0000
SUZANNE H. HIMES, 0000
STEVEN L. HORRELL, 0000
DAVID M. HOUFF, 0000
GREGORY A. HUSMANN, 0000
ANGELA M. KEITH, 0000
MARK C. KESTER, 0000
ROBERT E. KETTLE, 0000
JAMES H. LEWIS III, 0000
JON R. OLSON, 0000
MICHAEL N. OLUVIC, 0000
LAURA J. PEARSON, 0000
DALE C. RIELAGE, 0000
JOSEPH R. ROBSON, JR., 0000
CINDY M. RODRIGUEZ, 0000
DANIEL P. SALYAN, 0000
BRYAN P. SHEEHAN, 0000
STEVEN B. SHEPARD, 0000
JOSEPH A. SMITH, 0000
LOUIS T. UNREIN, 0000
MICHAEL VERNAZZA, 0000
TRACY A. VINCENT, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

DANIEL A. ABRAMS, 0000
DAVID R. ALLISON, 0000
GEORGE A. ALLMON, 0000
RANDALL E. ANDERSON, 0000
DOUGLAS B. BECKER, JR., 0000
WILLIAM E. BINDEL, 0000
DANIEL L. CARSCALLEN, 0000
CHRISTOPHER J. CARTER, 0000
GREGORY CLAIBOURN, 0000
MEGAN E. CLOSE, 0000
ROBERT J. COLES, JR., 0000
KENNETH W. DALTON, 0000
BRUCE L. DESHOTEL, 0000
ROBERT G. DILLOW, JR., 0000
DONALD C. DRAPER, 0000
REGINALD D. EDGE, 0000
JAMES A. FELTY, 0000
HORACIO FERNANDEZ, 0000
PAUL A. FIELDS, 0000
SCOTT P. FIELDS, 0000
STEVEN J. FINNEY, 0000
JANET A. GALLAGHER, 0000
WILLIAM A. GARREN, 0000
BRIAN E. GEORGE, 0000
DOUGLAS K. GLESSNER, 0000
RAYMOND D. GOYET, JR., 0000
MICHAEL W. HADER, JR., 0000
JAMES E. HAIGH, 0000
SEAN O. HARDING, 0000
ROY HARRISON, 0000
GERALD D. HERMAN, 0000
EDWARD F. HOGAN, 0000
TED C. JOHNSON, 0000
BRIAN D. JULIAN, 0000
LAWRENCE KING, 0000
JAMES R. LAVIN, 0000
BRIAN M. LEPINE, 0000
KEVIN B. MASON, 0000
MICHAEL G. MCCLOSKEY, 0000
DENNIS W. MITCHELL, 0000
STEPHEN G. PEPPLER, 0000
EDWARD M. G. RANKIN, 0000
JOSE J. RODRIGUEZ, 0000
MARK J. SCHMITT, 0000
DANIEL M. SHELLEY, 0000
DONALD C. SHORTRIDGE, 0000
JEFFREY M. SILVAS, 0000
DAVID W. SKIPWORTH, 0000
DONALD A. SMITH, 0000
TIMOTHY G. SPARKS, 0000
PAUL B. SPOHN, 0000
LEE C. STEPHENS, 0000
ROBERT S. SULLIVAN, 0000
JAMES S. TALBERT, 0000
GEORGE N. THOMPSON, 0000
STEVEN D. WEBER, 0000
ERASMUS D. WHITE, 0000
RONALD L. WHITE, JR., 0000
JOHN W. WOOD, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JOHN C. ABSETZ, 0000
LYNN ACHESON, 0000
DAVID A. ADAMS, 0000
CHRISTOPHER D. AMADEN, 0000
TROY A. AMUNDSON, 0000
ERIC J. ANDERSON, 0000
WILLIAM S. ANDERSON, 0000
CHARLES A. ARMIN, 0000
SEAN R. BAILEY, 0000
EDWARD P. BALATON, 0000
CARROLL W. BANNISTER, 0000
JEFFREY T. BARNABY, 0000
DAVID L. BAUDOIN, 0000
ROBERT A. BAUGHMAN, 0000
CHRISTOPHER J. BAUMSTARK, 0000
MICHAEL W. BAZE, 0000
ROBERT E. BEAUCHAMP, 0000
PAUL A. BECKLEY, 0000
CRAIG M. BENNETT, 0000
JEFFREY J. BERNASCONI, 0000
MICHAEL K. BICE, 0000
RANDALL J. BIGGS, 0000
BRADFORD A. BLACKWELDER, 0000
MARY D. BLANKENSHIP, 0000
DAVID R. BRADLEY, 0000
BRENT M. BREINING, 0000
CECIL C. BRIDGES, 0000
JODY G. BRIDGES, 0000
DARIN J. BROWN, 0000
LEKEEN BROWN, 0000
CLIFFORD D. BRUNER, 0000
MICHAEL O. BRUNNER, 0000
DAVID R. BUCHHOLZ, 0000
WILLIAM A. BULLARD III, 0000
WARREN R. BULLER II, 0000
PAUL R. BUNNELL, 0000
JASON B. BURROWS, 0000
GEORGE J. BYFORD, 0000
AARON M. CADENA, 0000
KENNETH B. CANETE, 0000
HERBERT E. CARMEN, 0000
JON R. CARRIGLITTO, 0000
JAMES P. CARTWRIGHT II, 0000
FRANCIS X. I. CASTELLANO, 0000
PETER R. CATALANO, JR., 0000
JEFFREY V. CAULK, 0000
TIMOTHY A. CAUTHEN, 0000
ROBERT B. CHADWICK II, 0000
WYATT N. CHIDESTER, 0000
CYNTHIA L. CHURBUCK, 0000
VINCENT T. CLARK, 0000
TODD J. CLOUTIER, 0000
WILLIAM F. CODY, 0000
MARK D. COFFMAN, 0000
JEFFREY S. COLE, 0000
KENNETH M. COLEMAN, 0000
MARK J. COLOMBO, 0000
STEPHEN J. COMSTOCK, 0000
JERRY D. CORNETT, JR., 0000
SHANNON E. COULTER, 0000
CARL E. CRABTREE III, 0000
JEFFREY R. CRONIN, 0000
JAMES E. CROSLEY, 0000
GORDON A. CROSS, 0000
JOSHUA A. CROWDER, 0000
JOSEPH R. DARLAK, 0000
KEITH B. DAVIDS, 0000
RICHARD J. DAVIS, 0000
RICHARD W. DAVIS, 0000
STERLING W. DAWLEY, 0000
MICHAEL R. DERESPINIS, 0000
BRIAN K. DEVANY, 0000
JEFFREY S. DODGE, 0000
CRAIG M. DORRANS, 0000
TIMOTHY A. DOWNING, 0000
RICHARD J. DROMERHAUSER, 0000
CURTIS R. DUNN, 0000
DAVID L. DUNN, 0000
CHRISTOPHER M. ENGDAHL, 0000
LANCE C. ESSWEIN, 0000
DILLARD H. FAMBRO, 0000
ANDREW U. G. FATA, 0000
EDUARDO R. FERNANDEZ, 0000
RICHARD L. FIELDS, JR., 0000
SEAN R. FINDLAY, 0000
KENNETH O. FISHER, 0000
MICHAEL A. FISHER, 0000
DOUGLAS J. FITZGERALD, 0000
SEAN M. FITZPATRICK, 0000
WILLIAM J. FLAGGE, 0000
JOHN M. FLYNN III, 0000
JOHN D. FREEMAN, 0000
DEREK K. FRY, 0000
RAUL O. GANDARA, 0000
JAMES R. GARNER, 0000
STEVEN A. GLOVER, 0000
EMIL A. GOCONG, 0000
GREGORY W. GOMBERT, 0000
DALE F. GREEN, 0000
ROBERT L. GREESON, 0000
GREGORY L. GRIFFITT, 0000
BRUCE W. GRISSOM, 0000
BRIAN A. GROFF, 0000
WILLIAM R. GROTEWOLD, 0000
WILLIAM J. GUARINI, JR., 0000
RICHARD S. HAGER, 0000
MARK D. HAMILTON, 0000
SAM R. HANCOCK, JR., 0000
MARTIN H. HARDY, 0000
DAVID J. HARRIS, 0000
KEITH G. HARRIS, 0000
STEVEN M. HARRISON, 0000
JAMES D. HARVEY, 0000
CHRISTOPHER H. HEANEY, 0000
DOUGLAS H. HEDRICK, 0000
RICHARD B. HENCKE, 0000
GEOFFREY G. HERB, 0000
RICHARD C. HESS, 0000
RAYMOND J. HESSER, 0000
CHRIS A. HIGGINBOTHAM, 0000
KYLE P. HIGGINS, 0000
CHARLES A. HILL, 0000
TERENCE A. HOEFT, 0000
PATRICK J. HOGAN, 0000
THOMAS P. HOLLINGSHEAD, 0000
MICHAEL P. HUCK, 0000
CHARLES K. HUENEFELD, 0000
JEFFREY D. HUTCHINSON, 0000
JOE W. HYDE, 0000
STACY K. IRWIN, 0000
BURCHARD C. JACKSON, 0000
KRISTIN E. JACOBSEN, 0000
GLENN R. JAMISON, 0000
JEFFREY T. JATCZAK, 0000
MICHAEL L. JENSEN, 0000
ANDREW D. JOHNSON, 0000
CHARLES A. JOHNSON, 0000
SCOTT E. JOHNSON, 0000
CRAIG A. JONES, 0000
STANLEY C. JONES, 0000
TIMOTHY E. KALLEY, 0000
MICHAEL I. KATAHARA, 0000
BRIAN G. KELLY, 0000
DAVID D. KINDLEY, 0000
BRIAN R. KLEVEN, 0000
GARY M. KLUTTZ, 0000
SCOTT L. KNAPP, 0000
TIMOTHY J. KOTT, 0000
ANDREW I. KRASNY, 0000
JOHN G. KURTZ, 0000
PATRICK A. LACORE, 0000
JAMES M. LATSKO, 0000
KEVIN D. LAYE, 0000
LAWRENCE F. LEGREE, 0000
TRENTON S. LENNARD, 0000
ANTHONY J. LESPERANCE, 0000
JONATHAN A. LEWIS, 0000
OLIVER T. LEWIS, 0000
ADRIAN R. LOZANO, 0000
TIMOTHY C. LUND, 0000
ROBERT J. LYNCH, 0000
ROBERT W. LYONNAIS, 0000
WILLIAM C. MACKIN, 0000
WILLIAM R. MAHONEY, 0000
CARLIUS A. MAPP, 0000
JAMES A. MARVIN, 0000
SEAN C. MAYBEE, 0000
WESLEY R. MCCALL, 0000
THOMAS F. MCCANN, JR., 0000
MICHAEL J. MCCLINTOCK, 0000
PAUL D. MCCLURE, 0000
ANTOINETTE MCCRACKEN, 0000
ROBERT G. S. MCDONALD, 0000
DOUGLAS A. MCGOFF, 0000
KEVIN MCGOWAN, 0000
BRENDAN R. MCLANE, 0000
MARK W. MCMANUS, 0000
RICHARD J. MEADOWS, 0000
JOHN V. MENONI, 0000
DAVID J. MERON, 0000
SCOTT A. MERRITT, 0000
CARL W. MEUSER, 0000
KYLE T. MICHAEL, 0000
JAMES R. MIDKIFF, 0000
BRYAN L. MILLS, 0000
GERALD N. MIRANDA, JR., 0000
TODD J. MITCHELL, 0000
JOHN C. MOHN, JR., 0000
GEOFFREY C. MONES, 0000
TROY E. MONG, 0000
JEROME T. MORICK, 0000
ROBERT B. MOSS, 0000
MICHAEL E. MULLINS, 0000
EDWARD D. MURDOCK, 0000
SCOTT W. MURDOCK, 0000
GERALD D. MURPHY, 0000
STEPHEN F. MURPHY, 0000
TIMOTHY F. MURPHY, JR., 0000
MARK T. MURRAY, 0000
JAMES R. NASH, 0000
FRANK W. NAYLOR III, 0000
CHRISTIAN A. NELSON, 0000
VERNON E. NEUENSCHWANDER, 0000
RICHARD P. NEWTON, 0000
KENNETH A. NIEDERBERGER, 0000
DONALD A. NISBETT, JR., 0000
SIDNEY S. NOE, 0000
CRAIG A. NORHEIM, 0000
MICHAEL J. ODOCHARTY, 0000
ANTHONY L. OHL, 0000
JEFFREY C. OHMAN, 0000
JACK P. OLIVE, 0000
ALBERT G. ONLEY, JR., 0000
ROBERT R. OSTERHOUDT, 0000
STEVEN D. OSTOIN, 0000
MATTHEW D. OVIOS, 0000
ENRIQUE N. PANLILIO, 0000
MICHAEL B. PARKER, 0000
PHILIP A. PASCOE, 0000
GARY J. PATENAUDE, 0000
ROBERT E. PAULEY, 0000
KEITH L. PAYNE, 0000
STEVEN PETROFF, 0000
DANIEL M. PFEIFF, 0000
WILLIAM B. PHILLIPS, 0000
JOSEPH N. POLANIN, 0000
CHRISTOPHER X. POLK, 0000
JOHN A. PUCCIARELLI, 0000
FRED I. PYLE, 0000
ROBERT J. QUINN III, 0000
RICHARD A. RADICE, 0000
FERDINAND A. REID, 0000
BARON V. REINHOLD, 0000
JOHN W. REXRODE, 0000
TIMOTHY A. REXRODE, 0000
ROBERT T. REZENDES, 0000
GARY J. RICHARD, 0000
MICHAEL B. RILEY, 0000
MARY J. RIMMEL, 0000
KEVIN M. ROBINSON, 0000
JAMES D. ROCHA, 0000
JON P. RODGERS, 0000
ROLAND C. ROEDER, 0000
THOMAS M. ROWLEY, 0000
PAUL RUCHLIN, 0000
MARK B. RUDESILL, 0000
MICHAEL S. RUTH, 0000
STEVEN M. RUTHERFORD, 0000

LOUIS F. RUTLEDGE, 0000
CHRISTOPHER L. SAAT, 0000
BENJAMIN C. SALAZAR, 0000
MALACHY D. SANDIE, 0000
GREGORY M. SANDWAY, 0000
MICHAEL D. SCHAEFFER, 0000
RICHARD J. SCHGALLIS, 0000
TRAVIS C. SCHWEIZER, 0000
SHANNON E. SEAY, 0000
VINCENT W. SEGARS, 0000
CHARLES L. SELLERS, 0000
GREGORY M. SHEAHAN, 0000
DENNIS P. SHELTON, 0000
SCOTT C. SHERMAN, 0000
KEVIN R. SIDENSTRICKER, 0000
FRANCISCO H. SILEBI, 0000
ANTHONY L. SIMMONS, 0000
JAMES F. SKARBEK III, 0000
COURTNEY B. SMITH, 0000
JOHN J. SNIEGOWSKI, 0000
SCOTT R. SNOW, 0000
MICHAEL J. SOWA, 0000
TIMOTHY S. STEADMAN, 0000
LEIF E. STEINBAUGH, 0000
ROBERT T. STENGEL, 0000
ROBERT E. STEPHENSON, 0000
DIANE K. STEWART, 0000
CHRISTOPHER STEYN, 0000
ARTHUR R. STIFFEL IV, 0000
BRYAN C. STILL, 0000
RONALD J. STINSON, 0000
MARK S. SUMILE, 0000
RAY A. SWANSON, 0000
THOMAS W. TEDESSO, 0000
STEPHEN R. TEDFORD, 0000
JACK S. THOMAS, 0000
DOUGLAS R. THOMPSON, 0000
MARVIN E. THOMPSON, 0000
JAMES T. TOBIN, 0000
RAYMOND M. TORTORELLI, 0000
QUOC B. TRAN, 0000
BRIAN A. TREAT, 0000
STEPHEN J. TRIPP, 0000
XAVIER F. VALVERDE, 0000
DARRELL G. VANCE, 0000
RICHARD A. VANDEROSTYNE, 0000
MATTHEW R. VANDERSLUIS, 0000
SCOTT P. VANFLEET, 0000
JOHN W. VERNIEST, 0000
CLARO W. VILLAREAL, 0000
DARRYL L. WALKER, 0000
HOWARD WANAMAKER, 0000
CARDEN F. WARNER, 0000
DANIEL W. WAY, 0000
MARK W. WEISGERBER, 0000
DAMON L. WENGER, 0000
PAUL G. WERRING, JR., 0000
ANDREW N. WESTERKOM, 0000
JOHN J. WHITE, 0000
THOMAS R. WHITE, 0000
PAUL A. WHITESCARVER, 0000
GEORGE M. WIKOFF, 0000
RICHARD A. WILEY, 0000
CHRISTOPHER T. J. WILSON, 0000
DEAN M. WOODARD, 0000
ANTHONY W. WRIGHT, 0000
DELBERT G. YORDY, 0000
GREGORY J. ZACHARSKI, 0000
CHRISTOPHER J. ZAYATZ, 0000
JOHN J. ZERR II, 0000

CONFIRMATION

Executive nomination confirmed by the Senate Tuesday, June 14, 2005:

THE JUDICIARY

THOMAS B. GRIFFITH, OF UTAH, TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT.