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PROCEEDINGS AND DEBATES OF THE 107th CONGRESS, SECOND SESSION

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# Senate

The Senate met at 9:31 a.m. and was called to order by the Honorable JOHN EDWARDS, a Senator from the State of North Carolina.

PRAYER

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

Spirit of the living God, fall afresh on us. We need Your strength. The wells of our own resources run dry. We need Your strength to fill up our diminished reserves—silent strength that flows into us with artesian resourcefulness, quietly filling us with renewed power. You alone can provide strength to think clearly and to decide decisively.

Bless the Senators today as they trust You as Lord in the inner tribunal of their own hearts. You are sovereign of this land, but You are also sovereign of the inner person of each Senator. May these hours of discussion and debate bring exposure of truth and resolution. O God of righteousness and grace, guide this Senate at this decisive hour. You are our Lord and Saviour. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN EDWARDS led the Pledge of Allegiance, as follows:

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

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, May 1, 2002.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN EDWARDS, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
*President pro tempore.*

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

## RESERVATION OF LEADER TIME

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

## ANDEAN TRADE PREFERENCE EXPANSION ACT—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the motion to proceed, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the bill (H.R. 3009), the Andean Trade Preference Act, to grant additional trade benefits under that act, and for other purposes.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. DODD) is necessarily absent.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''no.''

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

The result was announced—yeas 77, nays 21, as follows:

[Rollcall Vote No. 100 Leg.]

YEAS—77

| | | |
|---|---|---|
| Akaka | Domenici | Lott |
| Allard | Durbin | Lugar |
| Allen | Edwards | McCain |
| Baucus | Ensign | McConnell |
| Bayh | Enzi | Miller |
| Bennett | Feinstein | Murkowski |
| Biden | Fitzgerald | Murray |
| Bingaman | Frist | Nelson (FL) |
| Bond | Graham | Nelson (NE) |
| Boxer | Gramm | Nickles |
| Breaux | Grassley | Reid |
| Brownback | Hagel | Roberts |
| Campbell | Harkin | Santorum |
| Cantwell | Hatch | Schumer |
| Carnahan | Hutchinson | Smith (NH) |
| Carper | Hutchison | Smith (OR) |
| Chafee | Inhofe | Specter |
| Cleland | Jeffords | Stabenow |
| Clinton | Johnson | Stevens |
| Cochran | Kerry | Thomas |
| Collins | Kohl | Thompson |
| Conrad | Kyl | Torricelli |
| Craig | Landrieu | Voinovich |
| Crapo | Leahy | Warner |
| Daschle | Lieberman | Wyden |
| DeWine | Lincoln | |

NAYS—21

| | | |
|---|---|---|
| Bunning | Gregg | Rockefeller |
| Burns | Hollings | Sarbanes |
| Byrd | Inouye | Sessions |
| Corzine | Kennedy | Shelby |
| Dayton | Levin | Snowe |
| Dorgan | Mikulski | Thurmond |
| Feingold | Reed | Wellstone |

NOT VOTING—2

| | |
|---|---|
| Dodd | Helms |

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

## MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that there be a period for morning business until 12:15, with Senators permitted to speak therein for a period up to 10 minutes each.

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



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The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

## THE COST OF HIGHER EDUCATION

Mr. KENNEDY. Mr. President, every weekend that any of us go home, the families we run into are talking about the cost of higher education. We know that cost is going up. But this administration has just made an unconscionable recommendation for low- and middle-income families—to deny them the opportunity to consolidate the loans they have now at a fixed interest rate. That possibility is there for small business, it is there for big business, and this administration wants to foreclose that opportunity for families and new college graduates across this nation.

This is what it is going to mean for the average student loan borrower in America: It is going to mean an additional $3,000 in costs on a $10,000 student loan. At a difficult and challenging time when state budgets are cutting their aid to higher education, and tuition is on the rise, it is bad education policy, and it is not in our national interest. We should be doing everything in our power to make college more affordable.

I see the Senator from Vermont. I yield to him.

Mr. JEFFORDS. Mr. President, I agree with the Senator from Massachusetts. I could not believe what I heard today with respect to what they are trying to do. This administration is taking a look at education from the bottom up. It is ridiculous what they are doing. This is a perfect example of doing something that is so against anybody's rational way of helping people; I could not believe it.

Mr. KENNEDY. I see the Senator from Washington.

Ms. CANTWELL. I thank the Senator from Massachusetts for bringing up this issue. It is so critical in my home State of Washington, where the University of Washington is looking at increases of 11 to 12 percent. Students are spending between $60,000 and $70,000 for their education. We need to do everything we can in this information age economy, where education is going to determine success; we need to be increasing access. The elimination of a Federal fixed-rate student loan program is a big mistake. We should be increasing Pell grants. We should be increasing access to education. We should be making it more affordable.

As somebody who went to school on Pell grants and student loans, I think it is a difficult challenge. In this day and age, with our economy changing, access to education for low- and middle-income students at the most affordable rate must be a priority of this administration and this Congress.

Mr. KENNEDY. I yield to the Senator from New York.

The PRESIDING OFFICER. Procedurally, Senators may seek recognition, but there is no standing order for the Senator to yield.

Mr. KENNEDY. Do I have 10 minutes?

The PRESIDING OFFICER. The Senator has 10 minutes. The Senator may yield to another Senator for a question.

Mrs. CLINTON. Will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. I yield for a question.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Is the Senator aware of the amount of money that the average American family already pays for college tuition and education, which as my colleague from the State of Washington pointed out is actually increasing faster than the rate of inflation?

Mr. KENNEDY. I certainly am. Nationwide, college tuition have increased 35 percent over the last 10 years. Today, the average student leaves college with $17,000 of debt. In my State, the average loan that was consolidated last year was $27,000. Under the administration's proposal, students will lose the opportunity to consolidate their loans at a fixed rate and that would cost the average student thousands of dollars as the interest rate goes up from year to year.

Mrs. CLINTON. From the Senator's study of this proposal, which I have to confess, when I first saw it, I thought it was a misprint—I could not believe the administration was about to make the cost of going to college more expensive for middle-income families—is the Senator aware of the impact this alleged cost savings would have on the entire Federal budget? What is the amount of money the administration thinks they will save on the backs of young people going to college?

Mr. KENNEDY. Mr. President, $1.3 billion. This is a shell game. They will use the $1.3 billion they will get from students for the tax break. And we are talking about 6 million students who would be facing higher interest rates over the next decade. In my own state last year 36,000 people consolidated their FFEL loans—with an average loan of $30,000. That means that a variable interest rate could cost as much as half a million dollars to students in Massachusetts.

Mrs. CLINTON. In one State alone, is that the Senator's information?

Mr. KENNEDY. One State alone; that is right.

Mrs. CLINTON. I thank the Senator for bringing this very important issue to the attention of this body and to families throughout New York and America. Like so many, we were just amazed by this proposal. I certainly hope cooler and more compassionate heads will prevail on the other end of Pennsylvania Avenue.

Mr. KENNEDY. I see my friend and colleague from Massachusetts.

Mr. KERRY. Mr. President, I ask unanimous consent that the Senator from Massachusetts be permitted to control his time.

The PRESIDING OFFICER. The Senator is recognized to speak in morning business for up to 10 minutes. The Senator may only yield for questions.

Mr. KERRY. Mr. President, I simply ask my colleague from Massachusetts—and I thank him for bringing this issue before us—whether or not he believes, in a moment when people are being thrown out of work, in a moment when the economy is down, and at the same time we are talking about making education the most important issue for Americans, as Americans believe it is—if at that moment it makes any sense at all, when more people are trying to apply to schools, when more people realize the importance of education to get a high-value-added job to move the economy of this country—how can one justify, I ask my colleague, asking students in this country to pay the price of a large number of corporations getting a tax break, of a large number of wealthy people getting a tax break, and making it more difficult for people to secure the very education the President says and others agree is the most important ingredient in not only moving our economy but of good citizenship?

I ask my colleague, is there any possible way to justify that as a commonsense policy?

Mr. KENNEDY. The Senator has put his finger on it. This is a shell game. The moneys that effectively will be saved will be used for the tax break, the tax cut for the wealthiest individuals. It is wrong education policy. It is wrong national security policy.

American families need lower tuition rates rather than higher loan interest rates. That is what the Democrats stand for, and it is intolerable—intolerable—that the Bush administration would go through this subterfuge. The last time we faced it was in 1981 with the addition of an origination fee. That was a fee on all loan programs. That means that a student has to pay an additional 3 percent on what they have to borrow. Now students not only have to pay for tuition and fees, but the federal government added a 3 percent fee of their own to those already high costs.

This administration does not get it straight when it comes to educating the young people in this country.

I thank the Senator.

Mr. KERRY. I thank my colleague.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes 26 seconds.

Mr. KENNEDY. Mr. President, I conclude by pointing out, once again, that 64 percent of all students borrow through the Federal student loan programs to finance an education; 74 percent of full-time students work 25 hours a week or more while attending school, and nearly half of all these students work at levels that are likely to have a negative impact on their academic achievement and the overall quality of their education.

There is tremendous pressure on students now. If we tolerate this and let

the administration's program go forward, it will mean additional pressure on these young people, and in the long run a deficit to the quality of education in this country.

I yield the remaining time to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, how much time do I have?

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

The Senator from Minnesota has 2½ minutes.

Mr. WELLSTONE. Mr. President, does the Senator from New Jersey want to speak as well on this subject?

Mr. TORRICELLI. I will be happy to if the Senator has time.

Mr. WELLSTONE. I will yield to the Senator from New Jersey.

The PRESIDING OFFICER. Is there objection?

Mr. WELLSTONE. I ask unanimous consent that I be able to follow Senator MCCAIN in the order, speaking later, for 10 minutes.

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

The PRESIDING OFFICER. The Senator from Arizona.

## DIGITAL BROADCASTING

Mr. MCCAIN. Mr. President, today is the 1st of May. It is significant in U.S. history for major technological achievements. On this day in 1935, the Boulder Dam, later renamed for President Herbert Hoover, was completed. On May 1, 1947, radar for commercial and private aircraft was first demonstrated. On May 1, 1844, Samuel Morse sent the first telegraph message. All of these achievements represented significant technological milestones that have greatly benefited millions of Americans.

May 1, 2002, was supposed to be a wonderful day that represented another technological milestone for American television viewers. Today is the deadline for all commercial television stations in the United States to be broadcasting a digital signal. Theoretically, consumers should now be able to receive a digital signal from each and every commercial broadcaster in the country. Unfortunately for consumers, a vast majority of broadcasters have missed today's deadline, leaving consumers' digital TV tuners with little more than static. In fact, according to recent figures from the FCC and the National Association of Broadcasters, over 1,011, or 77 percent, of commercial broadcasters have failed to meet the May 1 deadline. Moreover, 834 commercial stations filed waiver requests with the FCC seeking an extension to complete the construction of their digital facilities.

The transition to digital television has been a grave disappointment for American consumers but not surprising to this Member. It is nothing short of a spectrum heist for American taxpayers. I will read a few headlines that recently appeared in newspapers across the country: The Boston Globe, ''Missed Signals: Many TV Stations Seen Lagging on Deadline to Offer High Definition.'' San Jose Mercury News: ''Static Blurs HDTV Transition. Industries Squabbling Stalls Digital Television.'' USA Today: ''Digital TV Revolution Yields Mostly White Noise.'' And finally, the most remarkable headline from Monday's New York Times: ''Most Commercial Broadcasters Will Miss Deadline For Digital Television.''

This morning's USA Today states:

Today was supposed to be a milestone in the grand conversion to digital broadcast television. Instead it serves as a marker for how poorly the transition is going . . . At the current pace, broadcasters will be able to keep all of their spectrum, digital and analogue, in perpetuity. That means a substantial chunk will remain locked up in broadcasters' hands instead of being put to more valuable uses, such as for advanced cell phone services. Not only are those needed, the spectrum also could be sold for billions, aiding a deficit-laden U.S. Treasury.

I ask unanimous consent that the editorial and other news items be printed in the RECORD.

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

[From USA Today, May 1, 2002]

DIGITAL TV ''REVOLUTION'' YIELDS MOSTLY WHITE NOISE

Today was supposed to be a milestone in the grand conversion to digital broadcast television. Instead it serves as a marker for how poorly the transition is going.

By now, every commercial broadcast station should have been sending its signal digitally. With just a regular TV antenna and a digital tuner, families were supposed to be getting their favorite TV shows in crystal-clear pictures and theater-quality sound.

So far, though, the revolution is a dud. Only about 25% of commercial stations offer a digital version of their broadcast signal, according to a report from Congress' General Accounting Office. And few programs are produced in the highest-quality HDTV format. Little wonder that just 200,000 digital over-the-air tuners were sold last year, compared with more than 22 million analog sets.

This is all a far cry from the revolution the broadcast industry promised six years ago. That's when Eddie Fritts, president of the National Association of Broadcasters, proclaimed that ''America will embrace digital TV quickly and enthusiastically.''

The hype, plus a heavy dose of big-money lobbying, persuaded Congress to give $70-billion worth of extra spectrum to the broadcast industry for free so it could transmit digital and old-fashioned analog signals during the transition. By 2006, 85% or more homes were to have made the switch to digital. Then the old analog signal was to be turned off, and broadcasters were to return the analog spectrum to the taxpayers who financed their gift.

At the current pace, though, broadcasters will be able to keep all of their spectrum, digital and analog, in perpetuity. That means a substantial chunk will remain locked up in broadcasters' hands, instead of being put to more valuable uses, such as for advanced cell phone services. Not only are those needed, the spectrum also could be sold for billions, aiding a deficit-laden U.S. Treasury.

Confronted with this faltering transition, broadcasters are casting blame in all directions: Cable companies don't carry their digital offerings, which means a big chunk of potential viewers can't get high-definition broadcasts. Only a tiny fraction of TVs have digital tuners. Hollywood doesn't produce enough digital content. The Federal Communications Commission isn't issuing enough mandates.

These complications have hampered the move to digital. But at bottom, they are distractions designed to hide broadcasters' unwillingness to fulfill the promise they made in exchange for all of that free spectrum.

Outside the broadcast industry, in fact, the conversion to digital TV is moving along pretty smoothly. More than 15 million consumers subscribe to digital cable, and 17.5 million homes get digital TV via small home-satellite dishes. HBO produces more high-definition digital content in any given week than all of the broadcast networks combined. This summer, the Discovery Channel will offer an all-high-definition service.

Viewers snapped up 12 million DVD players last year alone so they could watch digital movies. And digital TV monitors—which don't come with digital over-the-air tuners—are selling briskly.

Broadcasters were right. Consumers want the benefits of digital TV. Now it's time for broadcasters to live up to their bargain.

[From the Boston Globe, Apr. 26, 2002]

MISSED SIGNALS MANY TV STATIONS SEEN LAGGING ON DEADLINE TO OFFER HIGH DEFINITION

(By Peter J. Howe)

Roughly three-quarters of second-tier television stations in the United States are likely to miss next Wednesday's deadline to begin transmitting at least some programming in crystal-clear ''high-definition'' format, according to a survey being released today by the General Accounting Office, Congress's watchdog agency.

Among the more than 800 US TV stations involved are Boston's channels 38 and 56, which said yesterday they have been given federal waivers to miss the May 1 deadline set by Congress six years ago. Station executives said because of technical challenges, it will probably be early summer at the soonest before they start carrying programs in the high-definition format.

US Representative Edward J. Markey of Malden, who is the ranking Democrat on the House telecommunications subcommittee and commissioned the GAO study, said last evening the fitful progress shows the need for federal regulators to impose ''clear deadlines and real punishments'' for HDTV laggards. ''Some combination of the Federal Communications Commission and Congress has to force a resolution of the conflicts which exist amongst industries which have paralyzed the development of digital TV,'' Markey said. ''We can no longer just stand on the sidelines and allow the consumer to be deprived of the benefits of this remarkable technology.''

Six years ago, hoping to accelerate a shift many advocates said would be even more radical than moving from black-and-white to color TV two generations ago, Congress enacted legislation calling for all 1,600 US public and commercial TV stations to move by 2006 to a format that provides much clearer, all digital, wide-screen images more like a cinema than TV.

Images in HDTV are made up of nearly six times as many pixels, or dots, as standard analog transmissions enabling viewers to see details like individual blades of grass in a baseball close-up or faces in a stadium crowd.

The law called for 119 large-market TV stations affiliated with ABC, CBS, NBC, and

Fox to begin transmitting some HDTV content by May 1999, a deadline that has largely been met—although the Sept. 11 terrorist destruction of the World Trade Center towers in New York knocked five digital stations off the air there.

The second in a series of deadlines, coming May 1, calls for 1,121 stations in secondary and rural markets—and the smaller stations in big markets, like Boston's WSBK–TV (Ch. 38) and WLVI–TV (Ch. 56)—to transmit at least some HDTV programming.

But the GAO found that 74 percent of those stations that responded to a survey said they do not expect to meet the deadline. They cited the huge expense of upgrading studios and transmitters for HDTV, low consumer interest in buying $1,000-plus TV sets that can bring in HDTV signals, and practical issues such as a shortage of specially trained crews that can climb up thousand-foot towers to install new antennas.

In Boston, a spokeswoman for WLVI–TV (Ch. 56), Kristen Holgerson, said, ''We will probably be going on the air with HDTV sometime in June, but there's no specific date.''

Bob Hess, director of engineering and operations for the CBS/Viacom-owned channels 4 and 38 in Boston and 28 in Providence, said setting up high-definition transmitting equipment for Channel 38 has been bogged down ''for some very legitimate technical reasons.''

Among them was that the FCC's random-allocation process led to Channel 38 getting Channel 39 for its HDTV signal, creating huge challenges for station technicians to figure out how to install transmitters on their Needham Heights tower that would not interfere with the existing analog Channel 38.

''I'm expecting it to be on in early summer,'' Hess said, but added that ''nothing is easy and nothing is fast.''

Earlier this month, FCC chairman Michael K. Powell tried to kick-start HDTV, using a speech at a broadcasters' convention to encourage a purely voluntary effort to have television networks show more HDTV programming, TV set makers produce more sets that can get the signals, and cable television networks—which roughly two-thirds of Americans use to watch local channels—agree to add HDTV channels to their lineups.

Markey, however, said the GAO study shows that Powell cannot rely on a market approach to get the job done. He noted that a third of TV stations surveyed by the GAO that have gone to HDTV said they would not have met the deadline without being ordered to by the government—and many said without government pressure, it would be long after 2010 before a market developed.

''The FCC still is standing on the sidelines without a clear program,'' Markey said.

Dennis Wharton, a spokesman for the National Association of Broadcasters, said while hundreds of stations will not make the May 1 deadline, ''Most of them will be on the air within three to 12 months. This is very short-term issue from the broadcasting industry's perspective.''

Wharton predicted that by next year, officials will be focusing their ire on TV set makers' and cable TV conglomerates' role in slowing HDTV adoption.

By most estimates, fewer than 2 million US homes have been willing to pay the exorbitant prices for HDTV sets that can bring in special programming from the big networks only 30 to 40 hours a week. Fewer than 150,000 of the sets were sold in the US during March, according to the Consumer Electronics Association, despite the draw of CBS broadcasting college basketball and the Masters Golf Tournament in high-definition format.

Among high-end TV buyers, however, ''the consumer interest is unbelievable,'' said Jeffrey Stone, president of Tweeter, the 158-store home electronics chain. He said in the winter quarter, 91 percent of customers buying projection-screen TVs opted to pay the $300-plus premium to get HDTV capability, and 60 percent of conventional ''tube TV'' sales were HDTV units.

''There's just no comparison'' to standard TV, Stone said, recalling a basketball game he watched where ''you could count the individual beads of sweat on Michael Jordan's head. It looks more real than real life.''

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[From the San Jose Mercury News, Apr. 13, 2002]

STATIC BLURS HDTV TRANSITION; INDUSTRIES' SQUABBLING STALLS DIGITAL TELEVISION

(By Dawn C. Chmielewski)

Federal regulators are working furiously to revive the faltering transition to digital television, even as two-thirds of the nation's commercial stations say they will be unable to meet a May 1 deadline to start digital broadcasts.

Some 877 commercial stations have told the Federal Communications Commission they would be unable—for financial, legal or technical reasons—to start digital broadcasts. That leaves half the nation's population, mostly those in small cities or rural areas, without access to crisp, digital television signals, federal regulators say.

As broadcasters prepared for this week's National Association of Broadcasters (NAB) convention in Las Vegas, FCC Chairman Michael K. Powell outlined a series of voluntary measures for broadcasters, television manufacturers, cable companies and home satellite providers to avert what he once described as ''a potential train wreck.'' The recommendations triggered a fresh round of finger pointing, as each industry blamed the other for the halting transition to digital TV. Powell called on the four major broadcast networks, together with cable networks HBO and Showtime, to broadcast half of this fall's prime-time lineup in cinematic high-definition TV or offer digital broadcasts with enhanced features, such as interactivity. High-definition TV offers near-cinematic picture quality while digital broadcasts are equivalent to what satellite TV subscribers currently receive.

By January, Powell proposed, network-affiliated stations in the nation's 100 largest markets would broadcast an enhanced digital signal to the 2.5 million people who own digital TV sets. At the same time, cable and satellite operators must begin carrying the digital programming.

TV manufacturers, for their part, must begin to make television sets with built-in tuners to receive the over-the-air digital broadcasts. Only 20 of the more than 300 models of digital TV sets manufactured currently come with such integrated receivers. For the vast majority of consumers, the only way to currently receive digital signals over the air is with a separate set-top receiver and antenna.

''We embrace the principles embodied in the Powell plan. We encourage our friends in allied industries to do likewise,'' said Edward O. Fritts, president and chief executive of the National Association of Broadcasters, in the opening address to the convention. ''This transition is far too important to consumers to risk further delay.''

Industry trade groups applauded Powell for trying to spur the moribund digital TV transition, even as they pointed to obstacles that would make it difficult to comply with his recommendations. The broadcasters say 274 stations already beam digital signals into the nation's largest cities. But the owners of small-market stations, such as San Jose's KKPX (Ch. 65), see little point in investing a reported $1 million to $2 million on the digital conversion, when fewer than a half-million consumers nationwide own the set-top boxes and antennas needed to tune in the digital broadcasts.

HDTV is widely regarded as the driving force that will entice consumers to make the migration to digital. But the majority of cable systems, which provide television programming to 67 percent of American households, still don't carry the networks' high-definition broadcasts of events like the Winter Olympics or the NCAA Men's Basketball Tournament in fewer than a dozen markets.

So station owners feel little urgency to flip the digital switch.

''Most people don't have digital TV,'' said Nancy Udell, a spokeswoman for KKPX parent Paxson Communications. The station received an FCC extension to the May 1 deadline, buying it time to explore a lower-cost method of simultaneously transmitting the digital signal alongside its analog broadcasts.

The National Cable and Telecommunications Association (NCTA), meanwhile, says its member services will carry high-definition television network programming when consumers demand it—or competition from digital satellite services such as EchoStar or DirecTV compels it. Indeed, they already carry high-definition HBO and Showtime channels in 280 cities across the country

''We've said all along, when the demand is there, this will take care of itself,'' said Marc O. Smith, spokesman for the NCTA.

The consumer electronics manufacturers, meanwhile, say they're unable to build cable-ready sets, because the cable industry has yet to settle on a standard for digital TV reception. And the set of working specifications developed by the industry's research arm, CableLabs, contain content protection that would give Hollywood studios the power to halt home recording or, alternatively, blur the picture resolution.

''No manufacturer has been stupid enough to sign the agreement yet,'' said Bob Perry, marketing vice president for Mitsubishi Consumer Electronics America, the nation's leading maker of projection televisions.

The Gordian knot of digital television may ultimately be unraveled in the halls of Congress. Later this month, the Consumer Electronics Association and legislators will convene a summit to discuss strategy for speeding the rollout.

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[From the New York Times, Apr. 29, 2002]

MEDIA; MOST COMMERCIAL BROADCASTERS WILL MISS DEADLINE FOR DIGITAL TELEVISION

(By Stephen Labaton)

Another milestone in the nation's tortured transition to digital television is about to be missed. Almost three-quarters of the commercial broadcasters that were supposed to be offering a digital signal by Wednesday will fail to make the deadline.

The delay is a further indication that the federally mandated transition to digital broadcasting will take longer than the planners had expected in the mid-1990's. But the missed deadline comes as no surprise. Hundreds of stations have been filing requests for extensions recently, citing a variety of financial and technical reasons. A report issued last week by the General Accounting Office found that 74 percent of the stations that were supposed to be emitting a digital signal by the May 1 regulatory deadline would be unable to do so. The report said most of the delinquent stations had cited the high cost of new technology. For stations in transition, the expenses averaged 63 percent of annual revenue for a technology that adds nothing discernible to the bottom line. The

report also noted the relatively low consumer interest caused by the high prices of digital TV sets and a host of technical issues like tower constructions.

Despite the difficulties, 95 percent of the major network affiliates in the top 30 markets are already offering digital broadcasting, and their signals reach about half of the population. But the failure of the smaller broadcasters is symbolic of a much larger nagging problem of aligning the technical and financial interests of a handful of industries—broadcasters, programmers, cable operators and electronic equipment makers—to make digital television accessible at affordable prices to consumers.

''It's a very complicated transition with lots of moving parts,'' said Rick Chessen, the chairman of a regulatory task force supervising the government's oversight of the conversion to digital television.

Digital television, which Congress and policy makers have been promoting the last six years, offers crisper images and sound, reduced interference and the prospect of viewers communicating through the set much the way they now do on the Internet. But transforming TV from analog to digital has public-policy significance beyond pretty pictures and greater viewer participation.

Policy makers of varying approaches agree that, by using a far smaller sliver of the electronic spectrum, digital significantly frees the airwaves for more productive use by other industries, including wireless communications, whose proponents are clamoring for more licenses. Once digital penetrates 85 percent of the nation's viewing market, the law requires broadcasters to surrender their analog-spectrum licenses back to the government to be reissued to other commercial ventures at auction. As a result, analysts and policy makers agree that the longer the digital transition, the greater the economic overhang.

''Spectrum is critical for us to have economic growth,'' said Blair Levin, a former top official at the Federal Communications Commission who is a regulatory analyst at Legg Mason. ''To the extent it is tied up, it represents a huge drag on the economy.''

The rollout of digital TV has stalled over many uncertainties about how to do so profitably. Broadcasters, particularly smaller ones, see little or no financial benefit yet in offering digital signals. Consumers cannot find high-definition television sets at affordable prices. Programmers have moved slowly in offering shows of digital quality. Cable operators have only just begun, in small pockets, to transmit digital signals.

Hoping to break the logjam, Michael K. Powell, the F.C.C. chairman, has called for the major industrial players to impose their own voluntary deadlines.

''You will get on this train in the right way, or it will run you over,'' he said this month at the annual conference of the National Association of Broadcasters.

Mr. Powell urged the four major networks and other major programmers to digitally broadcast at least half of their prime-time shows by this fall. He asked cable and satellite companies to carry some digital programs by the beginning of next year at no extra cost to subscribers. And he proposed deadlines over the next four years for television makers to increase their production of sets that include digital tuners.

Others long engaged in the debate say that Mr. Powell's proposal is not enough, and that in some instances it asks industry players to do little more than they had previously pledged. While there is no momentum on Capital Hill for the imposition of sanctions on tardy industry players or subsidies to encourage faster transition, some lawmakers are calling for legislation to prod a faster conversion.

''Our digital policy is a mess, and in the absence of the federal government intervening with a comprehensive policy, the American consumer is unlikely to ever receive the full benefits of the digital revolution,'' said Representative Edward J. Markey, Democrat of Massachusetts, who is ranking Democrat on a House subcommittee on telecommunications. ''Voluntary approaches don't work. A voluntary policy is what got us to today's mess. What we've wound up with now is the broadcast industry and cable industry engaged in spectrum hostage-taking with no end in sight, and no relief for the benefit of consumers.''

Federal rules required the 119 largest network affiliates to begin transmitting some digital programs by May 1999. That deadline has largely been met.

By Wednesday, 1,121 smaller stations were supposed to be in compliance, but nearly three-quarters will fail to meet the deadline. But industry officials said that they expected most of the broadcasters to be in compliance by the end of the year.

''We consider this a short-term issue affecting mostly small and medium market broadcasters,'' said Dennis Wharton, a spokesman for the National Association of Broadcasters.

Mr. McCAIN. Broadcasters have not only missed today's deadline but they have broken their promise to Congress and American consumers. In testimony before the Commerce Committee in 1997, the National Association of Broadcasters stated:

> We agreed to an aggressive rollout for this new technology . . . Broadcasters have made a compact with Congress concerning high definition television. We will meet our commitments.

I did not believe that at the time, and I know it is not true now. This is a $70 billion rip-off on the part of the National Association of Broadcasters, pure and simple. Today it is clear that three-quarters of those broadcasters have not met their commitments, and their failure to do so is slowing the transition to digital television. A slow transition affects Americans not only as consumers but also as taxpayers.

Broadcasters were given $70 billion in spectrum to facilitate the transition on the condition that they return it when the transition is complete. By failing to meet today's deadline, broadcasters continue to squat on the taxpayers' valuable resource.

While I am generally disappointed and frustrated by the broadcasters' failure to live up to their promises, I recognize some television networks are contributing to the transition. For example, CBS has been one of the leaders in providing digital content to consumers. They broadcast a large majority of their prime time schedule in high definition—approximately 16 hours a week. In addition, ABC is currently broadcasting all of their scripted prime time programming in high definition. Providing compelling content to consumers is an important component to the DTV transition. The more stations that are DTV capable and are broadcasting in high definition, the more consumers will migrate to this new technology and purchase products that allow them to view enhanced programming.

I believe broadcasters, as beneficiaries of this great American spectrum rip-off, bear heightened responsibility for facilitating the DTV transition. I recognize that if even the broadcasters were to meet their commitments, the transition would not necessarily be complete. Digital broadcast is one cylinder of the engine needed to drive the transition. Many other issues still remain unsolved, and I do not underestimate the amount of work that needs to be done. Michael Powell, chairman of the FCC, has recognized this. In what I believe is a step in the right direction, Chairman Powell has advanced a proposal that incorporates provisions for all of the industries involved with the DTV transition and asks for voluntary cooperation to accelerate the transition.

Chairman Powell has called for the top four networks to provide DTV programming during at least 50 percent of their prime time schedule beginning in the 2002–2003 season and has asked DTV affiliates of the top four networks in major markets to obtain and install the equipment necessary to broadcast a digital signal and inform viewers that digital content is being broadcast.

The proposal also calls on cable operators with 750 megahertz systems or higher to offer to carry, at no cost, the signals of up to five broadcast or other digital programming services. Additionally, the proposal asks the direct broadcast satellite industry to carry the signals of up to five digital programming services that are providing DTV programming during at least 50 percent of their prime time schedule.

Finally, the proposal calls on the equipment manufacturers to include over-the-air DTV tuners in new broadcast television receivers between 2004 and 2006. I understand that certain industry representatives, including broadcast networks and earlier today the cable industry, have expressed a general willingness to answer Chairman Powell's call. I think this is also a step in the right direction. I am hopeful these commitments will lead to results. Unfortunately, the last commitments obviously did not.

Make no mistake, I continue to be a firm believer in market forces, which is why I believe this voluntary proposal is an appropriate step at this time. We must be mindful, however, that valuable public resources are at stake. Should the transition continue to be delayed, alternative measures will need to be taken in order to reclaim the spectrum for which so many other productive uses can be found and which rightfully belongs to the American taxpayers.

I believe, therefore, the Congress needs to be prepared to intervene, if necessary, to protect the taxpayers of this country. If significant progress is not made in the DTV transition, then I will introduce legislation that will not be voluntary. Codifying Chairman Powell's voluntary proposal may be the mildest measure we should consider.

Let me emphasize the importance of this point. Significant progress needs to be made on the DTV transition. If progress continues to stall, then perhaps a more aggressive approach such as reclaiming the spectrum from the broadcasters beginning January 1, 2007, will be required.

In closing, I realize this transition has not been easy for all the industries involved. Some of the industries have made intensive efforts, devoting significant time and resources to make DTV a reality, but many difficult issues surrounding the DTV transition still remain.

During a 1998 Commerce Committee hearing on DTV transition, I stated I would not suggest the Government now ought to step up and immerse itself in micromanaging every piece of this process. While I still believe the Government is not good at micromanaging, I believe the hour is nearing when the Government should step in and find solutions to the mess we helped create. More importantly, I believe Congress has a duty to protect the taxpayers of this country and reclaim spectrum so it may be put to its best use.

I will finish with one final observation: For the most part, the Telecommunications Act of 1996 has failed to live up to its promises to consumers. I believe its failures can teach us a valuable lesson while we watch many of the same industries involved in the passage of the act grapple with conversion to DTV.

The lesson we should have learned from the failure of the 1996 Telecom Act is that the interests of major telecommunications companies and average American consumers are not the same. Where the interests of the industries and the interests of the consumers diverge, Congress must assure that the consumers come first. The failures of the Telecommunications Act show what happens when Congress first fails to see where the interests of industries are incompatible with the interests of consumers, and then fails to act once it does. I intend not to let this happen and will move forward with legislation should progress not be made in the coming months.

I say again, when we gave away $70 billion to the broadcasters, I knew at the time they would never meet this time schedule. It was a dirty little secret. They have not met it.

The Senator from New Jersey is on the floor. We tried to get some free television time for candidates. They certainly could not afford that. They are not acting in the public interest, and it is time they started acting in the public interest. There is no more powerful lobby in this town than the National Association of Broadcasters, and abuses have never been greater.

The PRESIDING OFFICER. Under the previous unanimous consent agreement, the Senator from Minnesota is recognized for a period of up to 10 minutes.

Mr. REID. If I could ask my friend to yield for a unanimous consent request, I ask unanimous consent that following the statement of the Senator from Minnesota, Senator TORRICELLI be recognized for 30 minutes as in morning business, and following that, Senator LOTT or his designee be recognized for up to 40 minutes.

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

The Senator from Minnesota.

## TELECOMMUNICATIONS

Mr. WELLSTONE. Mr. President, I have a couple of matters to cover. I caught the end of Senator MCCAIN's statement. I point out to colleagues the link between the telecommunications bill that passed in 1996 and reform.

I remember the anteroom was packed with all kinds of interests representing billions of dollars. I was trying to figure out where truth, liberty, and justice was in the anteroom. I think the consumers were left out.

We have not seen cable rates go down, but we have seen consolidation. For those who worry about competition, I argue when we look today at telecommunications and the mass media, we see a few conglomerates controlling the flow of information in the democracy. That is frightening.

If there was a sector of the economy that is ripe for antitrust action, this is one—along with the food industry.

## MENTAL HEALTH PARITY

Mr. WELLSTONE. Mr. President, I ask unanimous consent to have printed in the RECORD two editorials—one from the New York Times, and one from the Minneapolis Star Tribune—about the importance of ending discrimination in mental health coverage and calling for full mental health parity÷.

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

[From the Minneapolis Star Tribune, May 1, 2002]

BRAIN STORM AT LAST, BUSH GRASPS A MEDICAL FACT

President Bush took a grand leap on Monday—one many observers thought he'd never dare to take. He at last acknowledged that the brain is a part of the body.

Scientists, of course, have suspected as much for years; the president's declaration is sure to bolster their self-esteem. It will also open the door to a long-awaited policy change: If the brain is in fact yet another bodily organ, it certainly makes sense that its disorders be covered by the same medical-insurance rules that apply to every other bodily dysfunction.

This logic is not lost on the president, and on Monday he want out of his way to endorse legislation that would force insurers to treat brain disorders just like other medical illnesses. That would bring an end to the practice of assuring ample health coverage when the pancreas peters out of insulin but scrimping on care when the brain is short on serotonin. That sort of discrimination keeps sick people sick, Bush said, and contributes to the stigma suffered by people with brain diseases. The answer, Bush made plain, is ''full mental health parity''—a promise he says he'll work with Congress to fulfill.

This is phenomenal news, and it has the bill's top backers over the moon. Sen. Paul Wellstone's name may have been omitted as the president pushed his concept, but the Minnesota senator is too happy to care. Last year his mental health parity bill died an ignominious death in conference committee, after administration and Republican leaders buckled to insurers' complaints that the bill would be too costly.

Medical coverage for the brain—too costly to cover? Tell that to America's epileptics, whose disability has long been covered because it's no longer considered ''mental.'' Besides, the claim about costliness was nonsense from the start. The Congressional Budget Office estimates that premiums would rise less than 1 percent if parity were assured. And that calculation doesn't take into account the savings that could be reaped if—as is likely—early and habitual treatment of brain disorders led to fewer emergency-room visits, shorter psychiatric hospitalizations and reduced prison stays.

Of course the best reason to assure mental-health parity, as Wellstone and Republican cosponsor Pete Domenici of New Mexico have argued, is that it's the decent thing to do. Bush said just that on Monday, lamenting the history of misunderstanding, fear and shame that has haunted people suffering from neglected but fully treatable brain disorders. The way to banish those horrors is to treat the medical afflictions with medicine—wherever in the human frame they occur.

This is a terrific pledge from a once-reluctant president, and onlookers who see parity as a no-brainer should make sure he sticks by his word. As Wellstone observed earlier this month while speaking to mental-health experts in Bethesda, Md., much could still go awry as this measure moves through Congress over the next month. Though the Wellstone-Domenici bill calls for covering all mental illnesses, many foes favor letting legislators or health plans pare down the list to a few coverable—perhaps just the few curable—diagnoses. That could leave many of the sickest entirely uncovered. There's also the ominous danger posed by the possibility that insurers will design health-care packages that offer no mental-health care at all—a sneaky and pernicious way to skirt the parity requirement altogether.

But why worry about such things now? Bush has become a believer. Now perhaps he'll exercise a sliver of compassionate conservatism and lead the fight against weakening the modest mental-health parity bill. So voters must hope—and insist.

[From the New York Times, May 1, 2002]

TOWARD MENTAL HEALTH PARITY

President Bush said some encouraging words this week about the need for a health care system that will treat mental illness with the same urgency as physical illness. The president seemed to suggest that health insurance should cover mental problems on the same terms as other medical problems. If the president is serious about this issue, he will need to lean on recalcitrant House Republicans, the chief impediment to reform, to pass a bill elevating mental health coverage to a par with medical and surgical coverage.

Congress took the first step toward this goal in 1996 when it passed legislation that prevented private plans that offer mental health coverage from setting annual or lifetime limits that are lower than those set for other illnesses. But the law left a loophole that allowed companies to require much higher deductibles and copayments for mental health treatments than for other diseases. So a new bill—pioneered by Senators

Pete Domenici, Republican of New Mexico, and Paul Wellstone, Democrat of Minnesota—is now pending that would require parity in all terms, including deductibles, co-insurance and duration of treatment.

Although Mr. Bush shared the stage in Albuquerque with Senator Domenici, a longtime supporter of full mental health parity, he did not endorse the senator's progressive and expansive bill, which would require parity for more than 200 mental health conditions listed in the chief diagnostic manual when they cause clinically significant impairment. In one comment, Mr. Bush seemed to be seeking ''full mental health parity,'' but in another he talked only of putting ''serious mental disease'' on a par with other diseases. He also called it ''critical'' that the move toward parity not run up the cost of health care significantly.

The chief arguments shaping up in Congress involve the potential cost of upgraded mental health coverage and the appropriate range of mental illness to be covered. The Congressional Budget Office estimated last year that the Domenici-Wellstone bill would drive up premiums by about 1 percent, a cost that seems bearable given the importance of treating mental illness and removing the stigma attached to it. The health industry suspects that costs may rise faster and deplores any added cost to a system already under financial strain. But surely there are compromises that would install mental health parity as the norm but allow health plans to abandon parity if their psychiatric costs rose beyond a reasonable level. Me. Bush needs to follow his rhetoric with some hard bargaining to get a bill passed by Congress this year.

Mr. WELLSTONE. Both editorials are strong. They thank the President and my partner in this effort, Senator DOMENICI, for their fine work. Both point out that we need to make sure we have full mental health parity. We need to end the discrimination and make sure our loved ones and other families are provided with the treatment they need. That is not happening today. This would be a huge civil rights bill that would end discrimination and get much more coverage to people.

I recommend to every colleague the three-part series in the New York Times, front page. I cannot even read it, it is so powerful and so painful with regard to what is happening to those put in homes for mental health coverage. Because of the coverage they are getting, there will be a criminal investigation. People have taken their lives by jumping out of windows because of no supervision. The staff is underpaid and poorly trained and does not know how to provide the pharmacological coverage.

People live in the homes which are supposed to be community-based care, and there is absolutely no treatment, no help. These are people who do not have money. They are not capable of being a political force. My God, they live under the most wretched conditions. This should not happen in the United States of America.

It is a powerful series. I have never seen a greater contribution than what the New York Times has done on the front-page series.

EDUCATION

Mr. WELLSTONE. My third topic is education. I spoke yesterday almost with a twinkle in my eye when I heard what this administration is proposing to do.

In Minnesota, in 1999, students took out $483 million in loans; $406 million in Federal loans. In 1987, it was $188 million, $483 million versus $188 million.

Saying the students cannot consolidate loans and keep them at 4 percent and not worry about interest rates going up, average students—if this administration has its way—are going to be charged an additional $3,000 more. It is unconscionable.

All Senators need to understand many of our students are not 19 or 20, living in a dorm. Even if they are, a significant number of them are working 30 hours a week. These are not people for whom the cost of higher education for their families is easy. A lot of them are students not living in the dorm—40, 45, and 50 years of age—going back to school. Some of our taconite workers are going back to school to try to find employment and support their families. These are hard-pressed people.

Now, this administration doesn't want to give them a break on interest rates on their loans? It is the most distorted of priorities. Give it all away in tax cuts. A vast majority of these tax cuts go to huge multinational corporations, wealthy citizens, the top 1 percent of the population. And to give them credit, many of them say: We do not need it.

Instead, we are told we don't have enough money to fund the Pell grant, so the way we will do it is to charge higher interest rates for students, many of whom are hard pressed. It is unconscionable, unacceptable.

I announce on the floor of the Senate, along with other Senators, including the Senator from Minnesota, the Presiding Chair, who cannot speak but I can speak for him, we are not going to let it happen. It is not going to happen. I say to the White House: It is not going to happen.

Tomorrow we will talk with teachers, including teachers from Minnesota. I will talk about the education budget. We had all of the symbolic politics ''leave no child behind,'' with all the travel around the country, including in Minnesota and coming to the high school, Eden Prairie High School, all for education, all for the children—accept for when it comes to digging in the pocket and providing resources.

The State of Minnesota anxiously awaits the administration living up to the commitment to provide the full funding for special education. We had it done in the Senate. It was on a glidepath. The Presiding Chair and I would have liked to have seen it happen quicker. Over 5 years, it would be full funding, and over the next 5 years and the rest of the decade it would be mandatory, automatic full funding, $2 billion more in resources for education for the State of Minnesota, half of which would be used for special education, and half to be used to cover other costs which we incur because we do not get the funding from the Federal Government. The House Republican leadership and the White House blocked it.

We are going to have a debate on this issue. There are a lot of different formulations. I say forego the tax cuts for the top 1 percent; forego giving multinational corporations breaks so they don't pay taxes. Then we will have $130 billion, and over the next 10 years that is exactly what we need to provide full funding for special education.

I stake my political reputation on that tradeoff. I come from a State where we cut teachers, prekindergarten for children, and early childhood education programs. It breaks my heart to see that happen, where class sizes are going up. My daughter, Marsha, says her advanced Spanish class has 50 students.

Colleagues, education is a compelling issue in people's lives. If you want to talk about what is good for the country, good for the economy, and good for democracy, you are going to want to support education. We ought to be doing this. There will be a debate and every Senator will be held accountable. We need the full funding. That will be a fight. I know the Democrats will fight for it, and I hope many Republicans do as well.

Finally, ''leave no child behind,'' is the mission statement of the Children's Defense Fund. It is probably too much for them to take because all we have is a tin cup budget from this administration. To me, education is pre-K through 65; it is not K through 12.

Talking about higher education, older students, talking about students going back to school, and then there is the prekindergarten, which for some reason always is put in parenthesis, that is probably the most important education of all.

I don't want to celebrate the administration's budget. I am in profound disagreement with the priorities of this administration on children and education. I celebrate the work of these childcare teachers, many of whom make $7 an hour, with no health care benefits. It is preposterous. We say we love children, believe in children, but we devalue the work of the adults who help those children.

We are going to be meeting with Commissioner O'Keefe, probably with the Presiding Chair, as well, who has come from Minnesota. We are talking about TANF and welfare reform, and the administration has a new formula that 70 percent of the single parents, mainly women, will be working out of the home 40 hours a week, but they don't have additional money for childcare. There are a lot of other things that are wrong with this reform as well.

My point is, whether it be welfare mothers, whether it be families with

parents, whether it be single parents working, whether it be both parents working, whether it be low-income, moderate-income, or middle-income, this is a huge issue.

I ask unanimous consent that I have 3 more minutes to finish.

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

Mr. WELLSTONE. This is a huge issue for working families. Many of these families pay more for childcare than they do for higher education. In Minnesota, 30 percent of adult workers make under $10 an hour.

Let's talk about another issue, affordable housing. To pay for the rent of a two-bedroom apartment, not amounting to that much, they will be lucky if they pay less than $900 in Metropolitan Minnesota and it is pretty expensive in Greater Minnesota. If they have a 2- or 3-year-old, they will be very lucky if it is less than $1,000 for childcare. If you have a single parent, that is two-thirds of their income gone. I have not even included health care or transportation or food. I have not even included, maybe once in a blue Moon, being able to take in a movie or maybe taking your children out to eat.

This administration talks about ''leave no child behind.'' Now they want to expand the absolute requirement that these mothers are all going to work. They do not provide the money for childcare. Right now we have about 10 percent of low-income families who can take advantage of childcare and get any help because we do not have the funding. In Early Head Start, it is about 3 percent of these children who can take advantage of Early Head Start because we don't have the funding.

Then there are the middle-income people who look for some assistance, and this administration gives us nothing. And they want to talk about ''leave no child behind.'' In all due respect, they want to talk about the importance of reading, all of which is fine, but where is the investment? Where is the investment in these children?

I finish in these words. I borrow in part from Jonathan Kozol but in part myself. This is my favorite way of putting it.

You help these children when they are little, not because when you help them when they are little they are more likely to graduate from high school—true; not because when you help them when they are little they are more likely to go to college—true; not because when you help them when they are little they are more likely to graduate and contribute to our economy and be good citizens—true. You help them when they are little because they are all under 4 feet tall and they are beautiful and we should be nice to them. That is why we should help children when they are little. That is a spiritual argument.

I don't see that in the budget from this administration. I intend, as a Senator, working with Democrats and as many Republicans as possible, to have amendments out here calling for a dramatic increase in investment in early childhood education, in K–12, in higher education. To me it starts with education.

I yield the floor.

The PRESIDING OFFICER. Under the previous agreement, the Senator from New Jersey is recognized for a period of up to 30 minutes.

## TEACHING HOSPITALS

Mr. TORRICELLI. Mr. President, earlier this morning, Senators CORZINE, CLINTON, SCHUMER, and DURBIN were all here to join with me in making a common case. I hope they will be joining me during the course of the day, if they are able to return. If not, I would like to deliver what I believe is a common concern.

This morning Senators heard from my colleagues about the pressing problems of financing education in America in a difficult budget environment. I share in that concern.

I rise with a matter of equal importance for each of our States and all of our communities; that is, the rising pressure on medical care in America as a result of our difficult budget circumstances.

In the next few months the Senate Finance Committee and then the Senate itself is going to be debating the question of how to fund different components of American health care in this difficult budgetary environment. That debate will affect doctors and their ability to maintain their practices and the integrity of their profession; home health care providers and their ability to provide service to those who are often locked in their own homes and need desperately to have care; nursing homes, in many cases not simply the quality of their care but whether hundreds of nursing homes around the country continue to operate at all; and teaching hospitals. It is teaching hospitals this morning that I want to address in detail because in some ways their plight is the most perilous and the issue most immediate.

Since 1983, this Congress has recognized the unique role of teaching hospitals in the delivery of American health care. They have a particular contribution to make, providing technology dealing with difficult cases and providing the doctors themselves for each of our States and all of our hospitals. In recognition of these unique costs, the Congress created the Medicare indirect medical education funding, IME. For more than these 20 years, there was an adjustment for the 1,100 teaching hospitals around the country; that is, they were given a 6.5-percent additional payment for Medicare to fund their unique contributions, recognizing that all hospitals and all communities benefited by these few flagship hospitals in the Nation, these 1,100 institutions that made unique contributions. This 6.5-percent payment was maintained in good years and bad years, years of deficits and surpluses, because we recognized that without them the medical system in the country simply could not be maintained at its current quality. That is until now.

On October 1 the 6.5-percent payment for 1,100 teaching hospitals will be reduced to a 5.5-percent additional payment. It is important that Members of the Senate understand the consequences. The first is to medical technology. All hospitals in America are important, but all do not make an equal contribution. The 1,100 teaching hospitals in America are the source of almost every major medical breakthrough in the country: drug-coated stents which prop open clogged arteries and prevent scar tissue from closing up the artery again—teaching hospitals; implanted cardio defibrillators, such as the one used by Vice President CHENEY, to keep heart rhythm regular—teaching hospitals; EKGs or heart-lung machines, open heart surgery, and angioplasties—teaching hospitals.

Indeed, if you were to go through every major medical advance of our generation, they would come back to the best minds and the best facilities and the best medical departments —in teaching hospitals. That is what is in jeopardy.

Certainly, as it is the leadership of technology in the medical profession, so, too, it is with the most important delivery of services. The chart on my left shows the difference in the burden being carried by these relatively few hospitals. Crisis prevention services are delivered by 11 percent of other hospitals; teaching hospitals, 52 percent. Teaching hospitals, 91 percent of them deal with AIDS service deliveries, 24 percent of other hospitals; geriatric services, 75 percent of teaching hospitals are in geriatric cases, 35 percent of other hospitals; substance abuse, 47 percent compared to 14; nutrition programs, 84 percent of teaching hospitals deal with nutrition programs, 58 percent of other hospitals.

This extraordinary concentration of the development of technology, and dealing with the most difficult and most pressing of the Nation's medical problems, is the basis—the reason why we have additionally provided 6.5 percent. This addition to Medicare is something on which we have never before compromised in recognition of the higher costs and societal contributions.

I recognize in the Senate there is a belief that these teaching hospitals are simply a matter for northern New Jersey or Manhattan, Boston, Chicago, Los Angeles, or Miami—a few urban centers servicing a small part of the population. That could not be further from the truth.

Last year, teaching hospitals around the Nation admitted 15 million people and provided care to 41 million Americans in emergency rooms. These teaching hospitals may have elite talent and give important care with advanced

technology, but it is not for a select few; they are facilities used by all Americans in every State wherever you live.

I cannot overstate that in my region of the country or in my State it will not be a particular problem. It will be. But that burden is shared by all States. Because of this, when we confronted the issue of two previous Medicare give-back bills to compensate for the balanced budget amendment, Congress in 2000 and 2001 maintained the 6.5-percent IME adjustment. As I have noted to my colleagues, that expires on October 1. Automatically, it will return to a 5.5-percent adjustment. This is a 28-percent reduction in funding at teaching hospitals. The consequences are that over 5 years, $5.6 billion will not go for medical breakthroughs in AIDS, cancer, or heart disease; $5.6 billion is not available to teach and train the next generation of America's doctors; and $5.6 billion is not available to deal with the most difficult medical problems in the country.

This chart illustrates the degree of loss. Mr. President, 1,116 teaching hospitals in America will lose next year $784 million and, over 5 years, $4.2 billion.

In my State of New Jersey, this is as acute as anyplace in the country. In some ways, it is more so. Next year, New Jersey's teaching hospitals will lose $31 million. This is a State where 60 percent of our hospitals are now losing money. Those that are making money on average are making less than a 1 percent return on capital.

Over 5 years, New Jersey's teaching hospitals will lose $166 million. This does not just mean a reduction in services. It does not mean just a reduction in quality of care. It means that many will close.

I recognize the perception is that this is our problem, or New York's, or California's, or Illinois'. Allow me to share with my colleagues this information, lest you think this is our problem alone. We may have more teaching hospitals than anyplace in the country, but this is your problem, too. Arizona will lose $40 million; Arkansas, $13 million; Florida, $98 million; Massachusetts, $248 million; Maine, $15 million; New Mexico, $7 million; North Dakota, $3.7 million; and Oklahoma, $30 million. My colleagues, we are in this together.

The infrastructure that has created the greatest medical care in the world has been strained. Now it will be broken. Doctors will not be trained. These medical breakthroughs do not occur by chance. It has taken generations over a century to build these institutions and generations of building teaching staff and trained professionals to give us the greatest medical profession in the world.

It may be that this is concentrated in a dozen States. But the great medical centers of New York, Chicago, Massachusetts, New Jersey, Florida, and California are sending doctors to every State in the Nation. There is not one State in this country that will not this year or next year have had a doctor trained at a teaching hospital in New Jersey, or several from New York, or several from Boston, or Chicago, or Los Angeles. They go to Montana and the Dakotas. They go to New Mexico. They go to the Great Plains. They go to the Deep South. But most of them are trained in our urban centers.

Their ability to continue to train is now at its end. I don't know how the medical profession continues on its current basis. Doctors are closing offices for insurance reasons. Because Medicare payments are no longer adequate to meet the cost of service, offices are closing. Doctors move instead to practice at other hospitals. Now we are going to reduce reimbursements to hospitals. Some of those will close.

We have known for a long time that the current quality of medical care in America and the extent of service through different levels of income and class cannot be maintained. We have postponed it.

The inability of this Congress and the country to have a national system of health care delivery with privately or nationally based insurance has strained every degree of health care delivery. We have done our business to maintain it. We have even been able to maintain these hospitals by maintaining the IME system. Now that is at its end.

There is introduced in the Senate the American Hospital Preservation Act which would maintain the current IME adjustment at 6.5 percent. I am a cosponsor. Its major provisions will be before the Senate Finance Committee when we consider how to deal with the medical crisis in America.

I cannot more strongly urge my colleagues to follow the leadership of this legislation and consider seriously the consequences of allowing expiration of IME adjustment, what it will mean to these hospitals, what it will mean to the medical care profession, and what it will mean to every one of your communities and every one of your States when the local doctor who went away to the big city to become trained no longer comes home with his or her training and special skills and ability to save lives. The spigot is closed. Everybody is on their own. The teaching hospital just closed.

That, my colleagues, is no longer on the horizon. It is no longer speculation. That is exactly what we are faced with—the real consequences of losing our leadership in these technological breakthroughs and providing these very specially trained people.

I know earlier in the day Senator SCHUMER, Senator CLINTON, Senator CORZINE, and Senator DURBIN were to be here to share in these remarks. Regrettably, they were delayed because our colleagues were speaking, understandably and justifiably, on other issues. I know that on other days they will come to the Chamber to speak about these same concerns. Each of them would like to be identified with this case. We will come back to fight this on other days. This is not going away. We are not going to be silent.

I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Nebraska). The Senator from Michigan.

Ms. STABENOW. Mr. President, I ask unanimous consent to speak for up to 10 minutes in morning business.

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

## PRESCRIPTION DRUGS

Ms. STABENOW. Mr. President, I come to the floor today to respond to a proposal of principles that has been released this morning by our Republican colleagues in the House of Representatives.

First of all, I commend them for speaking out in support of prescription drugs and lowering the costs. But I come today, along with other colleagues, to ask them to join with us in doing more than just offering principles, but, as my colleague who is now presiding has indicated, show me the money—show me the resources. Unfortunately, for a senior who got up this morning and had to decide whether or not to eat or take their medicine, a set of principles will not purchase those prescription drugs. What they need is action. They need action now from us. We have the ability, the capacity to do that.

The first principle that has been put forward by the Speaker of the House is to lower the cost of prescription drugs now. I could not agree more. We have put forward a set of proposals to do exactly that, to increase the ability to use generic drugs, to open our borders with Canada so that our American consumers can purchase American-made drugs sold in Canada for half the price. So that our business community, our hospitals can have free and open trade with Canada to bring back drugs at half the price and sell them to our consumers. We can do that right now. It does not cost anything. Just take down the wall at the Canadian border.

We also know that we need to encourage the drug companies to put as much emphasis on research as they do on advertising. Right now, they are allowed to write off advertising costs deduct them. Taxpayers subsidize that. We know they are deducting twice as much on advertising as they do on research, and we know if we simply said, you can deduct as much on advertising as you do on research, we would save money, and we could put that money into Medicare for a prescription drug benefit.

We also know that the State of Maine has taken leadership in bulk purchasing, so that, on behalf of their consumers and their pharmacies, hospitals, and doctors, they are going to begin the process of purchasing in bulk to get a group discount. It is common

sense to get a group discount. We believe we ought to make that same approach available to all of our States that choose to do that.

Right now, that is being challenged in court by the pharmaceutical drug companies. So we welcome—I welcome—the House joining with us. We have legislation to lower the cost now.

The second principle is to guarantee all seniors prescription drug coverage. Certainly, our caucus—and a majority in this Senate—has been fighting very hard for this. We, again, are ready to do that right now. But it has to be real. One of my concerns is that our seniors have been hearing, for a long time, about updating Medicare and that we are going to provide Medicare coverage. We all know it has to be done.

In 1965, when Medicare was developed, it covered the way health care was provided at the time: You went into the hospital, you might have penicillin, you had procedures in the hospital. At that time, Medicare covered the way health care was provided.

Health care coverage has changed. Treatment has changed. We now rely to a great extent on medications. We are proud that those are developed in our country and that we have these new opportunities for treatment. I am proud, as an American, to be able to have that. But we also know it does not work if those who use the most prescriptions, the older Americans, do not have prescription drug coverage under Medicare. So there is no question that we are ready to do that in the Budget Committee.

I am very proud to have been part of the Budget Committee putting forward a resolution this year that would place a substantial amount—$500 billion—into Medicare and prescription drug coverage that we would put aside, as a country, to begin to address in a very substantive way what our seniors have to deal with every single day when they are struggling to pay for their prescription drug coverage.

My concern is that when you add up—and we have had a chance to look at an initial review of some of the principles from a wire story this morning that spells out the premiums, the copays, and the deductibles, and all of that—when you add it all up, unfortunately, what our Republican colleagues in the House are talking about just isn't good enough. It just simply is not good enough.

There are not enough resources. In fact, in looking in my State at an average senior who might be spending $300, as an example, per month on prescription drugs. For instance, a breast cancer survivor who is spending $136 a month on tamoxifen, and possibly needing cholesterol medication or blood pressure medication, or some other combination. With all those, a $300-a-month bill is not unheard of. Many of our seniors pay that. But if you add up what we are finding—and if this is not accurate, we welcome hearing the specifics—it appears from the paper they are suggesting something in the range of a $37-a-month premium, with a $250 deductible, that 80 percent up to $1,000 would be paid, and that 50 percent up to $2,000 would be paid. But for anyone who is spending between $2,000 and $5,000 a year—and that is many of our older Americans, or a family with a disabled child, or someone else with a health problem—there would be no assistance whatsoever.

When we add that all up, for someone who might be spending $300 a month for prescription drugs, it ends up being less than 20 percent of their bill being covered under what is being talked about by our Republican colleagues in the House of Representatives. It would end up, for $3,600 a year, that senior being out of pocket about $2,795, leaving them to get $805 in support through Medicare. That is just not enough. That is not enough. That is not what our seniors expect. That is not what people have talked about. That is not what was talked about in the Presidential campaigns. That is not what we know we need to do on behalf of our seniors. Less than 20 percent of the bill is just not good enough.

It also appears that this is something that would be turned over to private insurance companies, which I understand actually are very reluctant right now to do this. We are hearing from them that the private insurance companies would administer the plans, even though they are saying they are very reluctant.

We have had a similar experience with Medicare+Choice where HMOs and insurance companies have left the plan. We know about the problems there. Why in the world would we want to make the same mistakes with the prescription drug benefit?

So I see something being proposed that is inadequate—woefully inadequate—being administered by those who say they do not want to administer the program. We have experience that tells us it is not the best way to proceed.

We also know that under private plans the premiums could vary and, for the first time in the history of Medicare, we could have inconsistent premiums from region to region.

So there are a lot of concerns with the proposals we have seen from the other side of the Capitol, from our colleagues on the Republican side of the aisle in the House of Representatives.

My biggest concern is that while we continue to see people talk about principles—principles that talk about lowering prescription drug costs and talk about Medicare coverage—those principles alone will not buy one pill for a senior in Michigan. It will not buy one month's prescription for a family with a disabled child. It will not help one small business lower their cost and their health care premiums so they can make sure they cover their employees.

We need action now. We need the same sense of urgency in this Senate and in the House of Representatives that every family in America feels on this issue. We need the same sense of urgency that every senior citizen in this country feels when they walk into that pharmacy and today pay the highest prices in the world for their prescription drugs.

Shame on us for not acting. Principles are fine, but they are not enough. I know that the people I represent in Michigan are way beyond principles. They know what the principles are. They want to know when we are going to act on them, when we are going to cut the costs and provide prescription drug coverage under Medicare. They want to know when we are going to stop talking and start doing.

So I call upon my colleagues to take those principles and put them into legislation immediately. Let's make sure that it will work, that it covers more than 20 percent of costs under Medicare, and to join with us in a focused effort to lower the costs of prescription drugs for all of our citizens.

I thank the chair. I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I need 1 minute to confer with the Senator from Michigan. I suggest the absence of a quorum and ask unanimous consent for 1 minute when I am recognized.

Mr. REID. Reserving the right to object, I say to my friend from New York, I think under the agreement, our time is about up. We have 2 minutes left on our time.

Mr. SCHUMER. Then I will speak for 2 minutes.

Mr. REID. I say to my friend, there is no one here from the Republican side, so there being nobody here, until someone shows up, he can speak for up to 10 minutes without any problem.

Mr. SCHUMER. I thank the Senator.

Mr. President, I ask to speak for 10 minutes under morning business.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. Mr. President, I compliment the Senator from Michigan for the great work she has done in leading our caucus to discuss the issue of prescription drugs. We all know we are in a real dilemma. The dilemma is a very simple one. We have, praise God, these miracle drugs. You take a pill and it makes you better. You take a pill and you don't have to go under the knife for an operation. You take a pill and you live longer and healthier and happier. It is amazing.

All of us recognize that those pills don't grow on trees. It takes lots of research and effort to come up with them. But we are facing a dilemma in America—a dilemma faced by senior citizens; by young families who may have a child who needs one of these miracle pills; by small business men and women who have to pay for health care; by HMOs; by General Motors and the UAW. The cost of these medications is getting to be so high that we are living in a bifurcated society.

There are those who can afford them because they have wealth or because they are lucky enough to have a comprehensive health care plan, who live better and longer, and those who can't afford them who live worse.

It is not part of the American credo. We are happy to say, if you are wealthy, you drive a Cadillac and have a five-bedroom house; if you are poor, you drive a Chevy and rent a flat. I don't think we are ready to say in American society that if you are wealthy, you can live better and longer and get better medicine than if you are poor.

So I join my colleague from Michigan in asking, in demanding that we begin to do something about prescription drugs, that we make these drugs available to all people.

We have to do it in two ways: One, we have to make sure Medicare adds prescription drugs—it was the big thing left out of Medicare back in the 1960s; of course, back then we didn't have these miracle pills—and second, that we lower the cost.

We can do that by the methods on which I have been focusing, generic drugs, which lower the cost and provide the same availability without crimping the free market. And there are other proposals out there such as reimportation. But we have to lower costs for everybody.

We are here to respond to this: ''House Republican Principles to Strengthen Medicare with Prescription Drug Coverage.'' First, I would like to welcome my colleagues in the House, Republicans, for getting involved in the issue. With this little thing they have put out, you haven't even put your little baby toe in the water. Jump in. Join us.

They have principles: Lower the cost of prescription drugs now—how are you going to do it? I don't see anything as part of this that talks about that—guarantee all senior citizens prescription drug coverage. Let me tell my colleagues over in the House, if you are going to only allocate a small amount of money, you are not going to be able to do this. You may be able to help the very poor and those with catastrophic illness, but you will leave out the huge middle class. That is where it seems they are headed.

They say: Improve Medicare with more choices and more savings. It seems to me I smell a little rat in that one. To rob Peter to pay Paul, to say we are going to pay for prescription drugs by cutting back on other parts of Medicare, I can tell you how our hospitals are hurting. I can tell you how doctors throughout New York and America are no longer taking Medicare. You are going to make that worse.

This Republican plan seems to be saying: For a very few people we will make prescription drugs available, but we will take away the doctors who will be able to prescribe them.

Finally, they say: Strengthening Medicare for the future, yes, we agree with that. Making permanent a huge tax cut which has already thrown us more deeply into deficit than the war on terrorism and saying you are going to strengthen Medicare is a contradiction. You have to decide which one is more important. I think we have, many of us. I like cutting taxes. I voted for many tax cuts. But making it permanent now when you say we know what jeopardy Medicare is in and we know we need prescription drugs? I will tell you what side of the fence most New Yorkers would be on, particularly when they know the tax cuts go mainly, predominantly to the very people who can afford these prescription drugs on their own. They don't need the tax cut to do that.

Again, to my colleagues from the other side, from the other House, from the other party, welcome to the debate. We have been waiting for you. Let's get real. Let's not have a list of high-minded and somewhat contradictory principles. Put your money where your mouth is. What is your plan? What are you going to do? Many of us have specific proposals that we have been working towards. We would like you to support those. If you don't agree with those, what do you agree with?

Ms. STABENOW. Will the Senator from New York yield?

Mr. SCHUMER. I am happy to yield.

Ms. STABENOW. I commend the Senator for his efforts regarding generic drugs. There is no question that this is the heart of the matter. I know he has held hearings. He has a bill that is moving forward. I commend him for going right to the heart of the issue. Hopefully, our colleagues on the other side of the aisle and in the other Chamber will be willing to embrace what is a very tangible way to cut the cost, which he has been working on, holding hearings on, and moving forward on. I commend him on this issue to all those listening. The leadership of the Senator from New York has been absolutely superb on this.

Mr. SCHUMER. I thank my colleague from Michigan for those nice words and, more importantly, for the great work she does. Our generic bill is bipartisan. Senator MCCAIN and I are lead sponsors in the Senate. We have sponsors in the House.

Can you hear me over there in the House? Hop on our bill instead of putting out a statement of principles. It is led by SHERROD BROWN of Ohio, but we have a number of Republican sponsors as well. Again, it is joint; it is not intended to be partisan. That is one way to lower the costs.

The pharmaceutical industry is not going to like it. Again, I ask my House Republican colleagues: Are you willing to buck them? Are you willing to say we are going to lower the costs and prevent the lawyers from fleecing the Hatch-Waxman Generic Act clean or not?

Today is a good little baby step on balance by my colleagues in the House, but they have a long way to go to convince the American people they really care about this issue.

## TEACHING HOSPITALS

Mr. SCHUMER. Mr. President, I rise to address a related issue. I had come to join my colleague from New Jersey in addition to my colleague from Michigan on teaching hospitals. Like many of our precious resources, our teaching hospitals are concentrated in a few regions of the country. In fact, 50 percent of the residents trained in the US are educated in just seven States.

New York is home to nearly 10 percent of the Nation's teaching hospitals which train 15 percent of our Nation's new doctors—the single greatest percentage of any state.

And though we train them, they don't all stay in New York. They go to states where teaching hospitals are few and far between—like New Hampshire, Vermont, Montana, Delaware, and South Dakota—States that have fewer than 5 teaching hospitals each.

Twenty-two percent of the physicians practicing in both Vermont and New Hampshire—and nearly 20 percent of those in Delaware—were trained in New York. Five to 6 percent of the physicians practicing in South Dakota and Montana were trained in New York hospitals.

Even States that do have a significant number of teaching hospitals are dependent on New York for residents. Over 30 percent of Connecticut's physicians and 47 percent of New Jersey's were trained in New York teaching hospitals. Even 10 percent of those practicing in North Carolina hailed from New York originally.

In fact, there's not a State in the Nation that doesn't have at least a few doctors who were trained in New York institutions.

The concentration of medical education and research in New York State draws world-renowned physicians to train residents in an environment of state-of-the-art medical care and technology.

The State's teaching institutions also form the foundation of a powerful medical research industry, drawing 10 percent of the Nation's total National Institutes of Health grant funding.

But, like all our hospitals, our teaching hospitals are struggling. The Balanced Budget Act of 1997 was an important piece of legislation, but it cut funding for our Nation's hospitals by over $100 billion more than was originally intended, and our hospitals are still reeling from its effects.

Our teaching hospitals face another 15 percent cut in Medicare Indirect Medical Education, IME, payments this fall. This could mean almost $750 million to the teaching hospitals in New York.

This funding is a lifeline for our medical centers—it allows physicians to train in an environment of great technical sophistication where cutting edge biomedical research and breakthrough

procedures are a part of daily patient care.

And this quarter billion dollars cut in funding would be felt in Connecticut, in New Jersey, in Delaware, in Vermont, in South Dakota, in Montana—in all the States in which New York-trained doctors practice.

New York's teaching hospitals are an engine for the Nation's health care system. They are too crucial a resource to let struggle under the pressure of continued funding cuts. And I am committed to ensuring that this devastating cut does not happen this year.

As the Senate begins to craft Medicare provider legislation, I urge all my colleagues to stand with me in ensuring that any Medicare provider package includes a repeal of the IME cut.

Our teaching hospitals—and especially those in New York—are an engine for the Nation's health care system. I would have a very hard time supporting any Medicare provider package that does not include IME relief.

In conclusion, we need to train our doctors to be the best. Fifty percent of the residents trained in the United States are educated in just seven States. My State is home to 10 percent of the Nation's hospitals and trains 15 percent of our new doctors, the greatest percentage of any State. In fact, all over the country, 22 percent of the physicians practicing in Vermont and New Hampshire and 20 percent in Delaware were trained in New York. Well, that is an east coast State. Five to 6 percent of the physicians practicing in South Dakota and Montana were trained in New York hospitals.

In 1997, there were dramatic cuts in money to teaching hospitals.

There is not a State that hasn't benefited from the great training doctors have received in our New York teaching hospitals, or in other teaching hospitals throughout. Besides, the teaching hospitals are at the core of our medical research industry. They brought 10 percent to the NIH grants. Yet in the Balanced Budget Act of 1997, we dramatically slashed funding for teaching hospitals. This year, they face another 15-percent cut. That could mean $750 million to the teaching hospitals in New York. Well, that funding is a lifeline for our medical centers, the great research, and the great physicians which we are able and blessed to have in this country.

So I am here to join my colleague from New Jersey and my colleague from New York, Senator CLINTON, as well as others who are coming to the Chamber to join this effort, to stand firm in saying that we need to provide the help for the teaching hospitals. We cannot allow this next cut from the Balanced Budget Act to go into effect. We should not allow any kinds of benefits and other kinds of changes in the Medicare Program to occur without taking into account our teaching hospitals.

Many of us on both sides of the aisle will be working long and hard to see that that happens.

I yield the floor.

Mr. REID. Mr. President, the Democrats have used all their time. In fact, the time until 12:15 that we set aside should be used by the minority. I have talked to my friend from Wyoming. Senator BAUCUS is planning to be here at 12:15 to give his opening statement on this important trade bill. We have had good discussion today, and I look forward to the Republicans coming out.

## EULOGY OF THE DOG

Mr. REID. Mr. President, I talked to my brother a couple of weeks ago. My brother is 22 months younger than I. We are very close. I talk to him as often as I can. He lives alone in rural Nevada.

The last time I talked to my brother Larry he was very despondent. His dog had died—Smokey. The dog was almost a cartoon caricature, little short legs, a great big stomach. We used to make fun of my brother's dog, but he loved this dog. My brother was very emotional on the phone. He felt bad about his dog having died.

We all know that yesterday Senator BYRD's dog Billy died. My brother's dog was Smokey. This caused me to reflect, of course, as we all do in our lives, on the past. My brother's dog was Smokey, and the dog I grew up with was Smokey, a wonderful dog, part Chow, a great dog. He was a great fighter and protector of us. He could appear very mean, but he wasn't mean at all. But he was somebody I grew up with in rural Nevada. He was a companion and a friend. I still remember him warmly, our dog Smokey.

When I reflected on Senator BYRD yesterday, I remembered the speeches he gave on the floor where he talked about Billy Byrd, his dog. It was obvious he cared a great deal about his dog.

Senator BYRD, on this floor, with the memory that he has—and I cannot match that—one day I heard him recite this on the Senate floor. It was April 23, 1990, and this comes from the CONGRESSIONAL RECORD. He, by memory, gave the ''Eulogy of the Dog'' by Senator George G. Vest.

Senator Vest served in this body for 24 years. He is really not remembered for what he did in the Senate, but he is remembered for what he did as a lawyer, because George Vest represented a farmer whose dog named Drum was shot by another farmer. A lawsuit was filed against this man for having killed his dog Drum. George Vest is remembered for the closing statement that he gave to the jury regarding his dog.

This is very short and I will read this into the RECORD. I cannot do it, as Senator BYRD did, from memory. In doing this, those of us who had animals, like my Smokey and my brother's Smokey and Senator BYRD's Billy Byrd, the little poodle he had, will reflect on really what good friends these dogs have been to us. So, again, I do this in memory of Billy Byrd, Senator BYRD's and Erma's friend. This was given to the jury on September 23, 1870. Mr. President, this speech is so memorable that, in 1958, the town of Warrensburg, MO, where the speech took place, erected a bronze statue to honor old Drum and the orator, George G. Vest:

> Gentlemen of the jury. The best friend a man has in the world may turn against him and become his enemy. His son or daughter whom he has reared with loving care may prove ungrateful. Those who are nearest and dearest to us, those whom we trust with our happiness and our good name, may become traitors to their faith. The money that a man has he may lose. It flies away from him perhaps when he needs it most. A man's reputation may be sacrificed in a moment of ill-considered action. The people who are prone to fall on their knees to do us honor when success is with us may be the first to throw the stone of malice when failure settles its cloud upon our heads. The one absolutely unselfish friend that a man can have in this selfish world, the one that never deserts him, the one that never proves ungrateful or treacherous, is the dog.
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> Gentlemen of the jury, a man's dog stands by him in prosperity and in poverty, in health and in sickness. He will sleep on the cold ground when the wintry winds blow and the snow drives fiercely, if only he can be near his master's side. He will kiss the hand that has no food to offer, he will lick the wounds and sores that come in encounter with the roughness of the world. He guards the sleep of his pauper master as if he were a prince.
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> When all other friends desert, he remains. When riches take wings and reputation falls to pieces, he is as constant in his love as the sun in its journey through the heavens. If fortune drives the master forth an outcast into the world, friendless and homeless, the faithful dog asks no higher privilege than that of accompanying him, to guard him against danger, to fight against his enemies. And when the last scene of all comes, and death takes his master in its embrace and his body is laid in the cold ground, no matter if all other friends pursue their way, there by his graveside will the noble dog be found, his head between his paws and his eyes sad but open, in alert watchfulness, faithful and true, even unto death.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

## TRADE PROMOTION AUTHORITY

Mr. THOMAS. Mr. President, we have heard a number of topics discussed this morning which, of course, is the purpose of morning business and that is fine. We will, however, at the expiration of this time, move back into the topic that is before us—the one that seems to me is of major importance right now, the issue of which we are required to take some action within the next week is trade promotion authority.

It is accompanied with several other bills, and so it has become a little more difficult to understand and more difficult to pass, in fact, because of the leverages. I think we ought to focus on trade, creating jobs, and to the extent that trade stimulates our economy, and to talk a bit about that. The President has had this on his priority list

for a good long time. The basic idea here is to provide the outline for the President to follow—the President and the Trade Representative and his other helpers—in terms of how we negotiate trade agreements around the world. Quite obviously, constitutionally, the Congress has authority there, the Senate has authority over trade, trade negotiations.

But it is also clear that 535 people are not going to be able to negotiate trade agreements. Therefore, there needs to be a system, which has been in place until 1994, when it was not renewed, of doing this. It provides an outline for the President to follow with regard to developing trade negotiations and trade agreements with people around the world.

Because of the expiration of that outline, we have fallen far behind those countries making agreements, and the impact of that has been rather marked. Certainly the time has come for us to do something about this situation.

In this time of economic uncertainty, when we are seeking to build the economy, it is one of the bills the President has called on us to pass. The effects of it are fairly obvious. It can expand markets for American goods and services. It creates higher paying jobs. It taps the most effective workforce in the world to compete and boost productivity. It has all kinds of advantages.

It is clear that when we have trade, some elements in the economy do not do as well, and I understand that. What we are trying to do is find trade agreements that will emphasize the positive aspects, which I think is very likely to happen, and to hold down to a minimum negative impacts.

Economists say reducing tariffs by even one-third will reduce the world economy by $613 billion and boost our economy by $177 billion a year. All economists who are knowledgeable about this issue indicate there is a great deal to be gained from moving forward with a process that allows us to do what we need to do in areas where trade is prominent. We can stand back and let other countries have trade agreements, and we will find ourselves on the losing side.

We were involved in the committee, of which I am a member, on this issue. We reported out a package, the bill on which we voted this morning to consider, the Andean trade bill, reauthorizing trade with poor countries in South America. This bill is an opportunity to renew that trade. One country is Colombia, in which there are a great many problems, a great many drug problems that affect us. Some other countries are Bolivia, Ecuador, and Peru. This is not new trade. We have had this agreement before, and we will, I am sure, continue it.

There is a question about the textile industry, of course, and Senators from those States are concerned about what it will mean to the textile industry.

As I said, invariably there will be certain industries that will be impacted more than others. We need to deal with that situation.

Attached to that bill, as I understand the plan, is trade promotion authority and the Trade Adjustment Act. It makes sense to separate these bills and deal with them independently. We dealt with them before. There is no reason we ought to be using one as leverage on the other. They ought to stand on their own merits. I hope we come to some agreement to separate these issues and deal with them independently. That makes sense to me.

The renewal of Presidential trade promotion authority should be one of our top legislative priorities, and indeed it is one of the President's priorities. We have in the last few months dealt with the President's priorities. I am pleased with that, and I hope we can continue to consider his priorities. We have dealt with energy. We have dealt with the farm bill. We have dealt with tax reductions. We have dealt with education. These are issues the President has been pushing, and I do not see why we cannot work together to include trade promotion authority, which certainly has an impact on our economy and on families in this country.

It passed the House by a very close vote; nevertheless, it passed. We are going to be dealing with a bill that will ultimately go to a conference committee to deal with the House or, as some prefer it, to take the House's version so there will not have to be a conference committee. I suspect that is unlikely. Nevertheless, that is the situation with which we are faced.

In general terms, the procedures are a little difficult to understand, but they fall into two categories: The President's authority to proclaim changes in tariffs resulting from negotiations of reciprocal trade agreements with foreign nations and procedures for implementing provisions of such agreements entailing changes in U.S. laws. These procedures, commonly known as fast track, require an up-or-down vote in the Senate. Again, the process is one of having the experts on trade making agreements and bringing them back to the Senate. That process has been used for a very long time.

The key provisions of the bill are:

Establish negotiation objectives of the United States. These objectives are designed to provide congressional guidance to the President in the negotiations he undertakes. He is not totally uninhibited when negotiating.

It requires Presidential consultation with Congress before, during, and after trade negotiations, again to make sure there is congressional involvement, as there should be.

It creates a congressional oversight group, a broad-based, bipartisan, and permanent organization to be accredited as official advisers to U.S. trade negotiating delegations—again, the voice of Congress in negotiations.

It requires special consultation procedures for including agriculture, fishing, and textiles, recognizing these are segments of our economy that are impacted and need special consultation.

As I said, it requires an up-or-down vote by the Congress.

The administration, of course, is urging we pass a clean bill so we are able to make some adjustments with the House. Senator Baucus and Senator Grassley, the chairman and ranking member of the committee, have urged we hold it to limited issues. I hope we can, indeed, do this.

The trade adjustment bill is more controversial. Most people agree there is merit to taking a look at the impact trade agreements will have on workers in the United States and that there ought to be some recognition of that impact and some assistance. Generally in the past, these programs have included financial and training assistance for workers displaced by import competition, assistance for firms facing a significant adjustment due to increased import competition, and assistance programs established in conjunction with NAFTA. This has been done in the past.

This Trade Adjustment Act has been in place, and I believe most people believe there should be some help. However, it has generally been training, an effort to help people become reemployed, and not to set up a longstanding welfare relief program. That is what many of us try to guard against.

I mentioned the programs that will expire, but there are some new provisions that have been put into the bill that I think will be controversial: Health insurance subsidies. No agreement has been reached as to how that will be done. Some people prefer temporary assistance be given in tax relief or tax assistance, where payments can be made for a period of time and let the workers select their health care.

One of the proposals, however, is to have the Government pay up to 75 percent of continuing what is called COBRA; that is, continuing the insurance program that was provided by the company. Unfortunately, there are no time limits on this proposal.

We are developing another health care relief entitlement, which is troublesome to some, when we ought to be thinking about how do we get people back to work rather than providing a longstanding program.

In addition to that, it increases the coverage to farmers, ranchers, independent fishermen, iron workers, and truck operators. Along with that is what is called assistance for secondary workers, those who supply the goods to the industry, whether it is upstream or downstream, and without a very clear definition as to what that means.

It would be very difficult to identify the various people who could be impacted, and one can imagine how many would be suggesting they were impacted.

These are the kinds of conflicts I think we have to deal with, and we should. We have to do something about it. Amendments will be offered. There is an amendment I was involved in, where a sugar anticircumvention provision was put in. What that deals with is, in the past, we have had a situation from Canada in which sugar was mixed up in molasses, brought over the border where sugar is not allowed but molasses is, the sugar is then taken out, and the molasses is sent back. We have been able to put a stop to that, but this is a permanent anticircumvention provision, which all it does is go around the law. So I hope that is not struck.

There are a number of other things, of course, that could well be included.

This is basically an issue that is very important to the United States. It is very important to the administration to be able to do their job. I do not think there is any question about that. I come from a State that is involved in agriculture. Agriculture is very much a part of trade. About 1 out of every 3 acres, almost 40 percent of the production, goes into foreign markets. We produce much more than we consume. So one of our real issues is to be able to develop some fair overseas foreign markets for agricultural products. That really has not happened as it should. As well as we get along, for instance, with Japan, we still have very high tariffs on U.S. beef. Japan could be a great market for us.

In balance, it is like most everything else we have to face up to, which is that not everyone agrees. We will hear someone say we ought to do it the right way. I do not know of anyone who wants to do it the wrong way, but there are differences of views as to what is the right way. That is the reason we come together and vote. It is perfectly legitimate to have different points of view, but it is not legitimate to not deal with the issues that are before us.

We spent a very long time on energy. I am very pleased we have a bill, but we now have to do something in the conference committee. Certainly, in terms of our situation, in terms of defense, in terms of terrorism, in terms of our economy, these are issues that have real impact. We can deal with lots of little things. We could list a number of major issues that have a great deal to do with the way we want to see our country in the future, and what we see down the line and that is really what we ought to be doing, is sort of setting some goals as to where we want to be in terms of freedom, in terms of economy, in terms of safety. Having set those goals, it is then reasonable to deal with the issues that are in the interim and determine whether those issues will lead us to the goals we have established.

Unfortunately, too often I think we sort of deal with the issue that is at hand without much thought to where it is going to be over time. It is also true that we represent 50 States, and each of us is a little different. Some this morning were talking about health care. I am chairman of the caucus on rural health care. Wyoming is a rural State, so when one talks about health care, it is different in Meeteesi, WY, than it is in Pittsburgh, PA. There has to be a system to recognize those differences.

The same is true with trade. It is different in different parts of the country. Overall, it is to our advantage, and I hope we move forward.

In conclusion, we need to get on with some other things, like the budget, like appropriations, some of the things that have to be done in order to keep our Government rolling. I am sure we can do that. I urge we move forward and complete our work as soon as we can.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. CLINTON. Mr. President, I ask to speak as in morning business.

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

The Senator from New York is recognized.

## THE FUTURE OF TEACHING HOSPITALS

Mrs. CLINTON. I will speak on a very important issue that affects every single American. It affects people all over the world. That is, the future and viability of our teaching hospitals. We know we have the crown jewels of the global health care system in the teaching hospitals who train our doctors and nurses and provide research that gives breakthrough therapies and drugs that saves and lengthens lives. We know our teaching hospitals are often the treatment of last resort for the sickest of the sick and the poorest of the poor.

Yet if we do not act by October of this year, our teaching hospitals nationwide will lose $700 million next year alone. I believe that would be a disastrous outcome. It certainly would undermine the ability of our teaching hospitals to continue to provide the funds in our health care system that all of our other hospitals, all of our entire health care infrastructure, rely upon.

New York, because we have a plethora of first-class, world-renowned teaching hospitals, would lose about $230 million of that $700 million, with over half of that falling directly on our leading-edge teaching hospitals. In 1 year alone, New York teaching hospitals will lose $120 million in Medicare payments because of the effects of the balanced budget amendment, which have slashed hospital reimbursements by $100 billion more than the CBO originally estimated. That is a huge amount of money. It is often the difference between a hospital being able to continue to provide first-class service, training, and charity care, and having to shut departments, lay off people, and turn their backs, literally, on those who need the help. Congress has already softened and delayed some of those reimbursement cuts, including postponing the reductions in the so-called indirect medical education payments, sometimes referred to as IME.

This October, the delay expires and Medicare will revert to the very harsh reimbursement levels that we all recognize cut much more deeply than anyone predicted. The cut would amount to an automatic 15-percent decrease in IME funding across the board, across all States. I oppose an automatic 15-percent decrease in home health payments, and I oppose such a decrease in medical education payments. That is why today a number of my colleagues and I are joining together to introduce a bill to call on the elimination of those cuts before they eliminate our academic medical centers.

New York has a number of fine teaching hospitals. Everyone will recognize the names. It also has 60 rural hospitals, which is more than some rural States have altogether. I am always a little bit surprised when my colleagues and others do not understand that New York, with 19 million-plus people, is not only the island of Manhattan or the five boroughs of New York City or the beaches of Long Island or the suburbs that I live in to the north. It is rolling countryside. It is dairy farms with 80, 100, 120 cows. It is apple growers with the orchards along the Great Lakes that form our northern and western borders. That is why I support a balanced package that will try to help both our teaching hospitals and our rural hospitals.

I draw our attention to a provision in this legislation that deals directly with our great centers of biomedical innovation. If we go forward with the cuts as planned, I believe we set back the cause of clinical trials, of lab research that is going on right now that might hold out a cure for one of us or a loved one. Make no mistake, these cuts will not only close departments, lead to layoffs and furloughs of highly trained doctors, nurses, and other medical personnel, I believe it will also harm patients. If we do not act on the indirect medical education amounts we need to continue to function, the scheduled cuts will affect the quality of health care all over the country.

It is not only New York that benefits from New York's teaching hospitals; our hospitals are filled with people from all over our Nation who are sent there because they cannot get what they need at home. We are proud of that. We have people from all over the world who come to New York's teaching hospitals. We train 20 percent of all physicians practicing in the United

States today. We provide both the medical education, the internship, the residency, the continuing education, that 20 percent of America's doctors take advantage of.

I was surprised to learn that 14 percent of all of Arizona's doctors and 25 percent of Florida doctors were trained in New York. Moreover, the therapies developed and perfected in our academic medical centers offer hope to patients everywhere. Chances are, no matter where you live, you have been touched by the work that has occurred in a New York teaching hospital. We have been instrumental in developing treatments for heart disease, for HIV/AIDS, for developing the therapies on cardiac catheterization, the first to innovate new forms of laser surgery, and the new minimally invasive surgical methods.

Many in this body support NIH funding. We want to double the amount of funding NIH has, but that funding is useless if the research grants cannot go to the top researchers to do the work we hope will come from additional NIH funding.

The U.S. health care system delivers some of the highest quality care to be found anywhere. The reason that happens is because we have a partnership. We have our local community hospitals in small towns and rural areas. We have our larger hospitals in bigger cities in every State in the country. Then we have the so-called teaching hospitals that provide what is called tertiary care. When you are really sick, when you need extra special help, that is when everybody at home has said: There is nothing more we can do for you, go to Sloan-Kettering, go to New York Presbyterian, go to Mount Sinai. There is someone there who can give you the help you need. We are very proud to provide that service to our country.

I hope we will be successful in the legislation we plan to introduce today to protect our academic medical centers. I am calling on our colleagues in both Houses to ensure the provision to eliminate these IME cuts in any Medicare package we enact this year. I hope what seems like an arcane, somewhat abstract issue, is understood as being the extremely important, critical concern that it is.

If one looks at the number of physicians trained, the cures and therapies that have been invented, the last resort care that saves lives that others had given up on, there is no doubt that our teaching hospitals are absolutely essential to the quality of health care in America. We need to do everything we can to make sure they stay healthy and provide the kind of care we have come to take for granted.

Mrs. CLINTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

## EXTENSION OF MORNING BUSINESS

Mr. REID. Madam President, this has been cleared with the Republican leader. I ask unanimous consent morning business be extended until the hour of 1 o'clock today with Senators permitted to speak therein for a period not to exceed 10 minutes.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. FEINGOLD. Madam President, I ask unanimous consent to speak for up to 30 minutes in morning business.

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

## FAST-TRACK

Mr. FEINGOLD. Madam President, I rise to offer some comments on the proposed trade legislation before us, and in particular on the so-called Trade Promotion Authority provisions in that package, also known as fast-track.

As a number of my colleagues have noted, the issue of whether or not to enact fast-track procedures is not a question of whether one favors or opposes free or fair trade, but rather what role Congress plays in trade agreements.

The fast-track proposal we are considering, and its predecessors, are quite recent inventions.

Prior to the Tokyo round of the GATT, there was no fast-track mechanism.

In fact, of the hundreds and hundreds of trade agreements our Nation has negotiated and entered into, only five have used the fast-track procedures.

This by itself should dispose of the argument that fast-track is necessary for us to negotiate trade agreements at all.

Really, what we are saying here is that fast-track has been the exception, not the rule, with regard to trade negotiations.

The previous Administration negotiated and implemented over 200 trade agreements without fast-track.

What were some of those agreements?

Madam President, I don't think I really need to tell you, but they included:

The Market Access Agreement with Argentina for Textiles and Clothing, the Market Access Agreement with Australia for Textiles and Clothing, the Agreement on Bilateral Trade Relations with Belarus, the Market Access Agreement with Brazil for Textiles and Clothing, an Agreement concerning Intellectual Property Rights with Bulgaria, an Agreement Between the United States of America and the Kingdom of Cambodia on Trade Relations and Intellectual Property Rights Protection, the Agreement on Salmon and Herring with Canada, the Agreement on Ultra-high Temperature Milk with Canada, the Agreement on Trade in Softwood Lumber with Canada, the Agreement on Intellectual Property Rights Protection with Ecuador, a Memorandum of Understanding on Trade in Bananas with Costa Rica, several agreements with the European Union, an Agreement on Intellectual Property Rights Protection with India, several dozen agreements with Japan, several dozen agreements with Korea, and many, many more agreements with dozens of other countries.

Just last year, this body passed legislation implementing the U.S.—Jordan Free Trade Agreement, also negotiated and implemented without fast-track procedures.

We passed not only bilateral agreements, but multilateral agreements such as:

the Information Technology Agreement, which involved over 40 countries, the Financial Services Agreement, and, the Basic Telecommunications Agreement.

President Clinton did not need fast track to negotiate those agreements, and President Bush does not need it to negotiate additional agreements.

While the ability to negotiate and enter into international agreements are inherently part of the President's constitutional powers, the Constitution grants exclusive authority to Congress ''to regulate Commerce with foreign nations.''

Congress has sole constitutional authority over setting tariff levels and making or changing Federal law.

Those who support fast-track constantly make the argument that if you want free trade, you have to enact fast-track.

They equate fast-track with free trade. The reason is obvious. The arguments for free trade are powerful. Indeed, I agree with those arguments.

We as a nation are better off in a world with freer trade than we are without it.

But the underlying premise, that we need fast-track to achieve free and fair trade, is absolutely false.

I have referred to the hundreds of trade agreements negotiated without fast-track procedures.

That is evidence enough.

But let me also argue that not only is fast-track not necessary for free trade, it may actually undermine it.

One of the greatest defects of the NAFTA and GATT agreements was the

perception that those agreements picked ''winners and losers.'' I believe strongly that those perceptions are based on reality, that some industries were huge winners in those agreements, while other industries were effectively written off.

Wisconsin had more than its share of those industries that were written off, and at the top of that list, at the very top was the dairy farmer.

There is no doubt in my mind that other industries were given a higher priority than our dairy farmers, and the results of those agreements underscore that feeling.

Under the GATT, the European Union is allowed to export 20 times the amount of dairy products under subsidy than the U.S. is allowed to export.

Not only did we formally provide the EU this significant advantage in that agreement with respect to dairy, but apparently the EU is not even complying with those incredibly generous limitations.

The industries given lower priority do not end with dairy, and while our more populous cities—Milwaukee, Madison, Green Bay—experienced serious job loss as a result of the NAFTA agreement—over 1000 jobs lost in Racine, and over 2600 jobs lost in Milwaukee—the fallout from the ''winners and losers'' approach extended to many smaller communities.

Even if we only use the extremely conservative statistics collected by the Department of Labor—statistics which many argue grossly understate actual job loss—smaller communities all over Wisconsin have been the victim of this ''winners and losers'' approach to trade agreements.

NAFTA's legacy of lost jobs includes places such as:

Baraboo, with 95 lost jobs; DeForest, with 40 lost jobs; Elkhorn, with 50 lost jobs; Hawkins, with 443 lost jobs; Marinette, with 32 lost jobs; Mauston, with 48 lost jobs; Merrill, with 84 lost jobs; Montello, with 25 lost jobs; Oconto Falls, with 437 lost jobs; Peshtigo, with 221 lost jobs; Platteville, with 576 lost jobs; Reedsburg, with 25 lost jobs; Spencer, with 23 lost jobs; and, Waupaca, with 132 lost jobs.

To trade negotiators whose focus was on advancing the prospects of those industries they pre-determined to be ''winners,'' the losses experienced elsewhere apparently were unfortunate but acceptable.

But for the communities I mentioned, those losses were real—real workers with real families to support.

The fast-track procedures under which GATT and NAFTA were negotiated and implemented invite this kind of polarization at the negotiating table.

And it is this kind of economic disparity produced by these trade agreements—the picking of winners and losers—that undermines broad public support for pursuing free trade agreements.

Free trade ought to benefit all sectors of the economy.

Without fast-track procedures, our negotiators will know their work product will undergo rigorous Congressional scrutiny.

And they will know that it will be much more difficult to enact a trade agreement that disproportionately benefits some while disadvantaging others.

It is this kind of trade agreement—one that benefits the entire economy—that will enhance the cause of free trade.

Fast-track also encourages another disturbing trend in trade agreements, namely advancing the short-term interests of multinational corporations over those of the average worker and consumer.

The increasing globalization of the economy confronts us every day.

Few can doubt the enormous power that multinational corporations wield in trade agreements, from the negotiating table itself to the closed-door bargaining that will go on before the implementing legislation is sent to Congress.

Fast-track procedures make it all the easier for those interests to advance an agreement that may include provisions that conflict with the interests of our Nation.

With opposition to the entire agreement the only alternative left to Congress, and with the considerable weight of the multinational corporate interests behind any proposal, it is likely that Congress will swallow even a deeply flawed agreement.

What does that do for the public support necessary for free trade?

It severely undermines it, Mr. President, and puts future trade agreements that can enhance our economy at risk.

Let me turn to another provision in the current fast-track proposal.

It may surprise some to know that even provisions that have nothing to do with the underlying trade agreement cannot be amended or even stricken from the bill. Some may find this hard to believe, but in fact we have seen such provisions included in fast-track protected trade legislation.

Many of us will recall the GATT implementing measure which included some controversial provisions intended to offset the costs of the trade agreement.

Among those provisions was a change in the actuarial standards of the Pension Benefit Guarantee Corporation and a provision many viewed as a sweetheart deal for certain media giants that gave preferential treatment with respect to FCC licenses.

Neither of those provisions had anything to do with the underlying trade agreement. Both certainly deserved more scrutiny than they received under the constraints of fast-track procedures.

Whatever justification there may be for providing special procedures for trade agreements, procedures which supporters argue are necessary to attract our trading partners to the table, there is no such justification for shielding unrelated provisions from thorough Congressional scrutiny and review.

Let me stress those funding provisions were not part of the trade agreement itself. Our trading partners do not get a say in how we offset the cost of a trade agreement, and one might ask, if our trading partners have no say in the offset provisions, why are those provisions included under fast-track procedures?

The fast-track proposal before us today has that same flaw. Under its procedures, the most unjustified funding mechanism attached to trade implementing legislation under fast-track will remain unscathed.

To correct that problem, I plan to offer an amendment that allows any tax increase included in a fast-track protected bill to be fully debated and amended. There is no reason Congress cannot fully debate, modify, or strike any tax increase.

But beyond the problem of fast-track protected tax increases, there may be no limit at all on extraneous matters in fast-track bills. I am not confident that as it is currently drafted the fast-track authority provided in this bill protects Congress from this potential abuse.

If that is true, if extraneous matters are not prohibited from fast-track protected trade bills, then there is nothing to prevent a President from including language to ban all abortions.

If extraneous matters are not prohibited, then there is nothing to prevent a President from including language requiring all guns to be registered.

In short, if extraneous matters are not prohibited, then there is nothing to prevent a President from including provisions, completely unrelated to trade, that would otherwise not pass this body.

I plan to offer an amendment to protect against such an abuse. It would provide that a point of order could be raised against extraneous matters included in a fast-track protected trade bill, and would require that they be dropped.

Let me reiterate that many of us who support free and fair trade find nothing inconsistent with that support and insisting that Congress be a full partner in approving agreements.

Indeed, as the senior Senator from West Virginia, Mr. BYRD, has noted, support for fast-track procedures reveals a lack of confidence in the ability of our negotiators to craft a sound agreement, or a lack of confidence in the ability of Congress to weigh regional and sectoral interests against the national interest, or may simply be a desire by the Executive Branch to avoid the hard work necessary to convince Congress to support the agreements that it negotiates.

I can think of no better insurance policy for a sound trade agreement than the prospect of a thorough Congressional review, complete with the ability to amend that agreement.

Not only would the threat of possible congressional modification spur our negotiators to produce the best product possible, that potential for congressional intervention could serve as an effective club in the hands of our negotiators when they are bargaining with our trading partners.

With hundreds of trade agreements negotiated and implemented without fast-track, the refrain we hear again and again, that we need to enact fast-track in order to negotiate trade agreements, is off key.

We do not need fast-track to negotiate trade agreements.

As I have argued today, in several important ways, fast-track invites bad trade agreements.

It produces agreements that pick winners and losers instead of advancing all sectors of the economy together.

It produces agreements designed to respond to the short-term interests of multinational corporations instead of fostering long-term sustainable economic growth.

It protects the completely unrelated funding provisions in trade implementing legislation, and as such invites enormous abuse.

And it may provide a mechanism to enact controversial legislation, unrelated to trade, that would otherwise fail to pass.

I think fast-track is bad for free trade. We don't need it, and we shouldn't enact it. I urge my colleagues to join me in opposing this legislation, and in doing so, voting for—voting for—free and fair trade.

## OTHER FAST TRACK PRIORITIES

Mr. FEINGOLD. Madam President, the Senate has put trade on the fast track, but there are a number of other priorities that the Senate would do better to put on the fast track.

The Senate has put trade on the fast track, but what about a long-overdue increase in the minimum wage? The Senate should put the minimum wage on the fast track.

The Senate has put trade on the fast track, but what about updating Medicare to provide coverage for prescription drugs? The Senate should put prescription drug coverage on the fast track.

The Senate has put trade on the fast track, but what about protecting people of color against racial profiling? The Senate should put racial profiling on the fast track.

Madam President, the Senate has put trade on the fast track, but another thing that should be on the fast track for Senate consideration is ensuring the health of Social Security. As we debate the Senate's priorities, let me take a few minutes to address this other matter that requires the Senate's attention: the state of Social Security and Medicare and the well-being of the millions of Americans whom those important programs serve.

Madam President, since the election, the topic of Social Security, as you well know, has all but fallen off the legislative agenda, and that is unfortunate, for at stake is little less than whether our elderly live in comfort or in poverty. Before Social Security, most elderly Americans lived in poverty. Before Medicare, more than a third of the elderly still lived in poverty—35 percent in 1959. Roughly 10 percent do now.

Social Security and Medicare have been essential to this achievement. Nearly two-thirds of elderly Americans rely on Social Security for most of their income. Social Security has been one of the most successful Government undertakings in history.

On March 26, the trustees of the Social Security and Medicare trust funds issued their annual reports on the financial condition of these two important programs. These reports give us another reason to turn attention to Social Security and Medicare and to our efforts to protect them.

The Social Security trustees' report indicates that to maintain solvency for 75 years, we need to take actions equivalent to raising payroll tax receipts by 1.87 percent of payroll or making equivalent cuts in benefits. That is essentially equal to the long-term actuarial deficit in last year's report—1.86 percent.

Another way of looking at these numbers is as a share of the economy, as measured by the gross domestic product. The Social Security trustees' report indicates that the long-term shortfall amounts to seventy-two one-hundredths of a percent of the size of the American economy that the trustees project over the next 75 years.

The Social Security trustees project that the assets of the Social Security trust funds will keep the program solvent through 2041, and that is actually 3 years later than last year's report. When Social Security exhausts its assets in 2041, annual Social Security tax revenues will be sufficient to cover about three-quarters of annual expenditures.

So the trustees' report thus sounds a warning: We can fix Social Security for 75 years if we make changes now equal to less than 2 percent in payroll taxes or 13 percent of benefits. But if we wait until 2041, we will need payroll tax increases of more than 5 percent or benefit cuts of more than a quarter.

The Medicare trustees' report indicates that to maintain solvency for 75 years, we need to take actions equivalent to raising payroll tax receipts by 2.02 percent of payroll or making equivalent cuts in benefits. That is up slightly from last year's report, which showed a long-term actuarial deficit of 1.97 percent.

The Medicare trustees project that the assets of the Medicare trust funds will keep the program solvent through 2030, and that is 1 year later than last year's report.

The trustees' report raises a somewhat higher hurdle to keep the Medicare program solvent over the long run than Social Security. To fix Medicare for 75 years, we need to make changes now equal to about 2 percent in payroll taxes or 38 percent of benefits. But, once again, if we wait until after the baby boom generation begins to retire in numbers, we will need much larger payroll tax increases or benefit cuts.

These reports underscore the importance of working to ensure the life of these important programs earlier rather than later. As President Kennedy said:

> [T]he time to repair the roof is when the sun is shining.

Regrettably, during the sunnier times of last year, the Government took steps that undermined the soundness of the Government's fiscal structure. Rather than repair the roof, the Government actually widened the hole.

The question of Social Security and Medicare solvency is, in large part, as with all budgetary questions, a question of resources. Last year, the government dissipated many of the very resources that we could have used and that we should have used to shore up Social Security and Medicare.

A recent analysis by the Center on Budget and Policy Priorities estimated the long-term cost of last year's tax cuts, assuming that Congress extends them, as many on the other side of the aisle advocate. According to that analysis, the long-run cost of last year's tax cut will equal 1.68 percent of the economy that the Social Security trustees project over the next 75 years.

Compare that, for a minute, to the amount that we need to keep Social Security healthy over the same time period, which amounts to seventy-two one-hundredths of a percent of the size of the economy that the trustees project over the next 75 years. The Center on Budget and Policy Priorities analysis shows, therefore, that ''the long-term size of the tax cut is more than double the entire long-term Social Security shortfall.''

The Center on Budget and Policy Priorities study goes on:

> [I]f the tax cut were scaled back so that three-fifths of it took effect while the funds from the other two-fifths of the tax cut were used instead to strengthen Social Security, the entire long-term deficit in Social Security could be eliminated.

That is an incredible fact. If we had just shown some restraint on this tax cut—still giving a very substantial tax cut—we could have eliminated the entire long-term deficit in Social Security.

Like all budgetary questions, the question of Social Security solvency is, in large part, a question of priorities.

I believe that we need to return to the priority of protecting the Social Security trust funds.

This has not been a partisan issue. This is an issue upon which we have had a broad consensus. We should return to that consensus position.

We should do what, in remarks in February of 2001, President Bush called ''prudent fiscal policy;'' we should, in

his words ''set aside all payroll taxes that are designed for Social Security to be spent only on Social Security.''

We should preserve Social Security surpluses to reduce the debt. And that debt reduction will better prepare us for the challenges of Social Security and Medicare in the future.

As then-Budget Committee chairman, Senator PETE DOMENICI explained in April 2000, when we were running surpluses:

> [T]here is less interest being paid because the Social Security trust fund money is not being spent; it is being saved, which means that we have that much less IOUs to the public . . . .

Chairman DOMENICI continued:

> I suggest that the most significant fiscal policy change made to this point to the benefit of Americans of the future . . . is that all of the Social Security surplus stays in the Social Security fund . . . .

In sum, we should, as President Bush said in a March 2001 radio address:

> keep the promise of Social Security and keep the government from raiding the Social Security surplus.

Returning to a budget where the Government no longer uses Social Security trust fund surpluses to fund other Government spending will require a change in policy. While the fiscally responsible actions we took in the 1990s led to balancing the budget without using Social Security in 1999 and 2000, the Government returned, last year, to using the Social Security surplus to fund other Government activities.

According to the Congressional Budget Office's ''Analysis of the President's Budgetary Proposals,'' over the next 10 years, the President's budget would use $1.8 trillion of the Social Security surplus to fund other Government spending. In the Congressional Budget Office's analysis, the Government would not return to a balanced budget without using Social Security during the decade for which they make projections.

But the Government will not have Social Security surpluses to use forever. Starting in 2016, Social Security will start redeeming the bonds that it holds, and the non-Social Security budget will have to start paying for those bonds from non-Social Security surpluses. The bottom line is that starting in 2016, the Government will have to show restraint in the non-Social Security budget so that we can pay the Social Security benefits that people have earned.

That's why it doesn't make sense to enact either tax cuts or spending measures that would spend the non-Social Security surplus before we've addressed Social Security for the long run. Before we enter into new obligations, we need to make sure that we have the resources to meet the commitments we already have.

To get the Government out of the business of using Social Security surpluses to fund other Government spending, we need to strengthen our budget process. At a minimum, we need to extend the caps on discretionary spending and the pay-as-you-go discipline that we began in 1990, and which expire in September of this year. The Senator from New Hampshire, Mr. GREGG, and I will offer an amendment to extend the spending caps during consideration of the budget resolution, and perhaps on other legislation, as well.

But we need to do more. We need to improve the budget process so that it includes incentives to balance the budget without using Social Security. I am working with the senior Senator from Texas, Mr. GRAMM, on proposals to do that, and I expect that sometime this year we will offer an amendment to improve our budget process.

We must address the long-term challenges posed by the needs of Social Security and Medicare. As an essential first step, we must revise the budget process to protect the Social Security Trust Fund. We must put our economic house in order, and I look forward to working with my Colleagues to do so.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## RECESS

Mr. REID. Madam President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:01 p.m., recessed until 2 p.m. and reassembled when called to order by the Presiding Officer (Mr. CARPER).

The PRESIDING OFFICER. The acting majority leader.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

## EXTENSION OF MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business, with Senators allowed to speak therein for up to 10 minutes, and that time would end at 2:30 this afternoon.

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

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

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

The Senator from North Dakota.

## TRADE

Mr. DORGAN. Mr. President, we are about to have the chairman of the Finance Committee and the ranking member of the Finance Committee offer a managers' package to the Andean trade bill that will be the pending business when we complete morning business.

No doubt some who watch the proceedings will be confused by what is happening because we have an Andean trade bill that will apparently be amended by something called trade adjustment assistance and, more importantly, will be amended by something called trade promotion authority. Trade Promotion Authority is a euphemism for fast-track trade authority. One would expect fast-track trade authority would be brought to the floor by itself. It is a very big policy issue. Yet it is coming in the form of a managers' package. One amendment is a part of the managers' package. I regret that, but that is how we have to deal with it.

I will speak about trade generally and explain why I do not support trade promotion authority or so-called fast track. I did not support giving fast-track trade authority to President Clinton, and he didn't get it. And I don't support giving fast-track trade authority to this President, and he should not have it.

Let me describe for a moment why I feel that way. This is what the Constitution says about international trade. Article I, section 8, says: The Congress shall have the power . . . To regulate commerce with foreign nations.

Not the President, not the trade ambassador, not some trade negotiator, but the U.S. Congress.

Fast track does away with that. Under fast track, Congress handcuffs its hands behind its back and says to a President, go negotiate a trade agreement somewhere and bring it back to the Congress, and we guarantee none of us will be able to offer an amendment, no matter how flawed the deal might be. Fast track means expedited procedures by which a trade treaty comes through the Congress guaranteeing no one has the ability to offer an amendment.

It is undemocratic. It does not make sense. Why would Congress, being told by the U.S. Constitution what their objection and their responsibilities are, decide to cede those responsibilities to the President? It does not make sense to me.

There is an old saying, there is no education in the second kick of a mule. Having been through this a couple of times and been burned badly, Congress ought to understand when a bad trade agreement is negotiated and brought back. It is very hard for the Congress to turn down a negotiated trade agreement. What happens is the Congress

embraces the agreement in total and rants about the specific provisions in the agreement that injure specific industries in the country because they are unfair, but no one can do anything about it.

We had a speech by Trade Representative Zoellick about 5 or 6 months ago. He was giving a speech in Chicago. Speaking to a business group in Chicago, Zoellick described lawmakers and lobbyists who oppose trade promotion authority, fast track, a bill sponsored by House Ways and Means Committee Chairman BILL THOMAS, and said they are ''xenophobes and isolationists.'' That is a thoughtless way to debate this issue—''xenophobes and isolationists.''

A colleague of mine yesterday, in discussing this, said something with which I strongly agree. This country ought not ever hang its head with respect to the issue of trade. This country can, should, and will be proud of its record in trade. We have led the world in opening markets, in deciding we want to lead the world in expanded trade, in freer trade and in fair trade. That has always been what this country has done. No one ought to point to this country with respect to trade issues. We have open markets, we have free trade, we have always been willing to compete almost anywhere, any time, under any set of circumstances. We have nothing at all to be ashamed of. We have a great deal to be proud of with respect to international trade.

We are now moving into a different area. Globalization is here. We are not going to turn back the clock. Globalization is part of our lives. The question isn't whether to embrace it; the question is: What are the rules for globalization? What are the rules for the new global economy? Are there rules of fair play for admission to the American marketplace?

We have had men and women die on the streets in this country who were walking the streets and demonstrating for the right to form labor unions early in the last century, demanding the right of workers to form labor unions. This country now has free labor unions. We had people marching in the street to demand safe workplaces. Now we have rules and laws that require workplaces be safe for workers. We had people marching in the streets to demand child labor laws, to take the 10- and 12-year-old kids out of the coal mines and the factories. Now we have laws in this country with respect to child labor. We had people marching in the streets in America trying to prohibit those who were producing chemicals from and dumping them into our water and our air and polluting our environment. Now we have clean air and clean water laws, and we have prohibitions against those who pollute our environment. These fights have been over the conditions of production.

So, in a global economy, what is the admission to the American marketplace, where we have already had the debate and made the decisions about those issues, the issues of a fair wage, a safe workplace, the right to organize, the prohibition against polluting? What is the admission to our marketplace? I ask the question, Is it fair trade for someone overseas in some foreign land who hires 12-year-old kids, pays them 12 cents an hour, and puts them in a factory 12 hours a day, to make a product they ship to Pittsburgh, Fargo, or Los Angeles? Is that fair trade for the men and women of the American workforce to compete against? Twenty-cent-an-hour labor by 12-year-old kids? Twelve-cent-an-hour labor by 10-year-old kids? Is it fair to compete against a plant overseas that can dump its chemicals in the water, its pollutants in the air, hire underage children, have unsafe workplaces, and prohibit their workers the right to organize? Is that fair competition for American workers?

Will those who want to produce in our world simply pole-vault over all of those difficult issues we have already addressed in our country—a safe workplace, child labor, a fair income, the right to organize, a prohibition against polluting the air and water? Can they just pole-vault over all of that and go to a country where they do not have to abide by any of that. They can hire kids, dump chemicals in the water and the air, fail to pay a living wage, and do nothing to have a safe workplace. They can produce whatever product they want, and ship it to the American marketplace.

That is not fair trade. It is not fair to the American worker. It is not fair competition. It is not fair to American businesses trying to compete in those circumstances.

Fast-track authority will be voted on here in the next week or so, 2 weeks perhaps. We are told it is sweetened and made less bitter by something called trade adjustment assistance. That means help for people who have lost their jobs. It's ironic, isn't it, that we are told these new trade agreements they want to negotiate will be good for our country, but they are already making plans for all the people that will lose their jobs because of these new trade agreements?

I guarantee that there is not one Member of the Senate who will lose his or her job because of a trade negotiation overseas. Our negotiators will rush overseas, if we give this authority. They will close the room and in secret negotiate a trade deal, and I guarantee there not one Member of the Senate will have his job directly threatened by that trade agreement. It is just the folks who work in the factories, the plants, on the factory floors who are producing products that cannot compete with unfair competition.

I am not someone who believes we ought to put up a wall or we ought to promote less trade. I believe we ought to have essentially free markets and expanded trade. But I demand fair trade. I just demand fair trade. If we do not have fair trade, then this country ought to have the backbone, the muscle, and the strength to say to other countries: You must open your markets to this country's products and the products you send to this country must be produced under conditions that are fair.

Whenever the subject of trade comes up, a lot of people are quick to classify the different views into two camps: the larger, expansive view of people who are smart and get it and see over the horizon and understand the global economy; that is, the people who support fast track; and the others are xenophobes, who are stooges, who don't understand any of this, have blinders on and cannot see over the horizon. They oppose fast track.

Those who write the editorials, those who are lobbying on behalf of fast track, those who make comments like Mr. Zoellick, they create these thoughtless divisions of those who get it and those who don't; those who are smart and those who are not. Of course that is not the issue at all. Let me describe what the issue is.

I talked about the issues we fought about in this country for years. There are 2.9 million children in Brazil under the age of 15 who are working, working in manufacturing plants and other circumstances that will produce products that will come to our marketplace. Is it fair trade to ask someone from Pittsburgh, trying to raise a family, being paid a decent wage, working in a factory that requires a safe workplace—is it fair trade to ask that person to compete against a 12-year-old? The legal minimum age for workers in Peru is 12. That is the legal working age.

So which of our workers and in which of our States do we want to have to compete against 12-year-olds? Is it fair to have the product of 12-year-olds sit on America's store shelves so the consumers can get a good deal, buying cheap products, because 12-year-olds in some foreign land produced it?

And shouldn't foreign markets be open to our products, which are produced under decent working conditions. Every time I come to the floor, I cite the example of the Korean auto market. I know the Korean automobile industry chokes on it because I have gotten several letters from them now. I use this as an example of fair trade because there is just such a lopsided trade imbalance with Korea when it comes to cars.

Last year Korea shipped 620,000 Korean cars to the United States. Do you know how many American cars we were able to sell in Korea? We sold 2,800.

Let me say that again. Korea shipped us 620,000 Korean automobiles and we were able to sell 2,800 U.S. automobiles in Korea. Do you know why? Because the Koreans don't want to buy U.S. automobiles—I am talking about the Korean Government. They don't want Koreans to purchase U.S. automobiles, and they put a series of obstacles up

against us selling cars in Korea. Fair? Of course it is not fair. Is there somebody going to do something about that? No. Our trade negotiators are not interested in solving problems—only in negotiating new agreements.

Will Rogers once said that the United States of America has never lost a war and never won a conference. He surely must have been thinking of our trade negotiators because they lose almost immediately when they begin negotiating.

If I had some feeling somebody, somewhere, someplace was going to solve a problem or two here or there, then I would maybe have a little confidence. But I could stand here and recite problem after problem. There is the unfair trade involving wheat from Canada, that comes here from a monopoly called the Canadian Wheat Board that would be illegal in this country, taking money out of the pockets of our family farmers, and nothing is being done about it.

How about Brazilian sugar that undermines our sugar program? The sugar is shipped to Canada, where it is packed into molasses. The molasses are shipped to the United States, where the sugar is taken out, and the molasses are shipped back to Canada. This is just a blatantly unfair trade practice, yet nobody is doing anything about it.

Or let's talk about barriers to U.S. exports of high-fructose corn syrup to Mexico. The Mexicans said they would let it into their country. But they will not.

Every pound of beef going from this country to Japan has a 38.5-percent tariff, every single pound of American beef. We ought to get more T-bones into Japan. Our negotiators thought it was a triumph to get Japanese tariffs on U.S. beef reduced to 38.5-percent. Is that a success? I don't think so.

I hardly dare begin to speak of China. The problems of getting access to the Chinese marketplace are legion.

Wheat flour—try to sell wheat flour to the European Union. There is a 78-percent tariff on wheat flour to the European Union, so our farmers can't get wheat flour into the European Union. In fact, we can't get U.S. beef into the European Union because it is produced with hormones. The European press has the Europeans thinking we produce cows with two heads.

Do you know what happened? What happened was interesting. It is typical of, in my judgment, our weak-kneed trade approach. Because Europe has caused us a problem on beef, we took the EU to the World Trade Organization. For once, the World Trade Organization actually ruled in our favor. They ruled that we could take action against Europe. Do you know what action we took against Europe? We slap them with penalties on truffles, goose liver, and Roquefort cheese. That will sure scare the Devil out of the European Union. America is going to take action against their truffles or goose liver.

The fact is, our country is unwilling to stand up and exhibit the backbone necessary to say to other countries: This marketplace is the only one like it in the world. There is no substitute for it. We want it open to you. But understand this: The American marketplace is open to your products but your marketplace must be open to ours. No, it is not open to your products if you are going to ship us prison labor production and, yes, we have had some of those goods coming from Chinese prisons to be put on the store shelves of this country. That is unfair. Our marketplace isn't open to you if you are going to lock kids, 10- and 12-year-old kids in plants producing carpets. That is not fair trade. Our markets will be open to you, but you must open your markets to us.

Having said all of this, those who might listen will say: All right. So this is someone who doesn't like trade.

Nonsense. I think trade is very important. I think expanded trade is very important. It is just that our country has to think differently.

For the first 25 years after the Second World War, our trade was all foreign policy. It didn't have anything to do with economic policy. We could tie one hand behind our back and beat anybody in the world. We were the best, the strongest, and the fact is, we could out-trade anybody under any set of circumstances. So for 25 years our trade policy was foreign policy. But the second 25 years after the Second World War things are different. Our competitors are shrewd and tough competitors—Japan, Europe, Canada, China, and others. The fact is they have grown to be shrewd, tough international competitors, and our trade policy can't be foreign policy anymore. It must be tough, hard-nosed economic policy that requires of them what we demand of ourselves. Regrettably, as a country have not been willing to do that. We are always interested in negotiating the next agreement, notwithstanding the problems that we have created in the past agreements. We just can't continue to do that.

My understanding is that we are going to have a managers' amendment offered. When the ranking member and the chairman show up, I will be happy to give up the floor. But I am going to offer an amendment, hopefully this afternoon—the first amendment on Trade Promotion Authority. I have a number of amendments, as do many of my colleagues on this issue. The first amendment I am going to offer is very simple. It deals with the issue of the North American Free Trade Agreement that we negotiated previously. It was a terrible agreement. When we started negotiating with Mexico and Canada, we had a small trade surplus with Mexico. We have managed to turn that into a huge deficit. We had a moderate trade deficit with Canada, and managed to increase that many times over. That is the record of NAFTA.

I am going to offer an amendment that says that investor dispute tribunals must be opened to the public. We now have a circumstance where when you have an investor dispute with NAFTA, a tribunal is created. It is a three-person tribunal. It is done in secret. It is behind closed doors. It is done in secret. The records are secret. The testimony is in secret. The only thing known are the results.

We ought not ever allow that to happen. My amendment is going to say no more secrecy. My amendment is going to say if we are going to be a part of NAFTA, the tribunals must be open. A little fresh air and sunshine will disinfect that process. I hope this amendment will be accepted by the Senate.

Let me speak briefly about one of the most egregious cases being considered by one of these tribunals. A few years ago, California decided to eliminate MTBE from our gasoline, and other states have done the same. We have discovered that this gasoline additive shows up in drinking water. It is going to injure the public health.

So California says: We have to get rid of MTBE. We will ban it from gasoline as an additive.

Because this country, for its own reasons, decides to stand up for the health of its citizens, we are now being sued under the NAFTA agreement by the Canadian company that makes MTBE. We are getting sued for close to a billion dollars. A tribunal is hearing that case, and is doing so in secret.

Here we are. That is the result of trade agreements that don't pay nearly enough attention to fairness for this country and fairness to international trade.

My expectation is that we will be debating this for perhaps a week or 2 weeks, with many amendments.

I heard a rumor—I don't know whether it is true or not—that the chairman and ranking member have reached some kind of agreement perhaps to oppose amendments to fast track. I hope that is not the case. My hope is—because most of us are not on the Finance Committee—that we will be able to come to the Chamber and offer ideas perhaps they have not thought of. I don't expect that committee has a monopoly on good ideas.

My expectation is that perhaps there are 80 or 85 other Members of the Senate who might have some ideas that could be considered meritorious and that could be added to fast-track trade authority.

I don't support fast-track trade authority. But perhaps in the process of amending this we can change it sufficiently so that it won't adversely impact this country. I hope we will be able to see some support for meritorious amendments that will be offered on the floor of the Senate.

There is a lot to discuss with respect to trade. I will not try to touch on every point right now. I think we are waiting for the chairman and ranking member to come and offer their amendments.

But I would like to talk for a moment about another issue on trade.

This is something that I raised with Secretary of State Colin Powell yesterday in an appropriations hearing. It also has to do with trade.

I fought for over 3 years on the floor of the Senate and was finally successful last year to make it legal again to sell food to Cuba. For 40 years we have had an embargo; we couldn't sell a thing to Cuba. We could not even sell food or medicine. My contention is that is basically immoral for us to use food as a weapon. We sell food to Communist China. We sell food to Communist Vietnam. But for 40 years we couldn't sell food to Cuba.

So I kicked and scratched for a long while with some of my colleagues. I was able to get that aspect of the embargo changed. Just last year, we were able to get it changed so we can actually sell food to Cuba.

Cuba had a hurricane recently that caused a great deal of damage, and they need food. They are offering to buy it, and to pay cash. Cuba has now purchased $70 million worth of food from the United States in recent months.

A fellow named Pedro Alvarez heads a group called Alimport, which is the Cuban agency that buys food. He was going to come to this country and inspect some facilities, visit a number of agricultural states, including coming to my State of North Dakota. They were prepared to buy wheat and dried beans, I understand.

The State Department issued him a visa. He applied for and was given a visa by our interest section for Cuba to come to the United States. Yet abruptly, the visa was revoked.

I am trying to find out why the visa was revoked. My staff called the State Department. The State Department said: Well, it is our policy not to encourage food sales to Cuba.

Yesterday, I asked the Secretary of State: Is that your policy?

The Secretary of State said: It is news to me. I have no such policy.

Someone deep in the bowels of the State Department apparently defined for himself the State Department's policy, and did not bother to check with Secretary Powell.

I asked for an investigation. Why do you revoke the visa issued to someone who wants to come to our country to buy wheat, dried beans, corn and eggs? Who decided that somehow that threatens our country? Where does that kind of thinking come from?

I expect I will probably hear from Secretary Powell in the next day or two. I hope so. I wrote a rather lengthy letter last week. I had the opportunity to question him before an Appropriations Committee hearing yesterday.

At a time when agricultural prices have collapsed and our family farmers are hanging on by their fingertips trying to make a go of it, we have some folks somewhere behind the drapes inside the State Department deciding they really don't want to sell food to Cuba and they don't want someone coming up here from Cuba to buy dried beans. If there is some perceived threat about that, I wish someone would inform me and the Senate.

That is one more example of the strange approach that people take to international trade. We ought never, under any circumstance, use food as a weapon. It is immoral. Does anyone think Fidel Castro has ever missed a meal because this country had an embargo for 40 years on the shipment of food to Cuba? Does anyone think he has ever missed breakfast, lunch, or dinner? No. Those sorts of things hurt poor people, sick people, and hungry people. They don't hurt Fidel Castro.

I have personally written to Mr. Alvarez saying: I am inviting you to this country. I have written to the Secretary of State saying: I want you to provide visas to the people who want to come up and buy food from our family farmers.

That is just one more piece in a long, sorry saga of international trade that doesn't represent our country's interests.

I am very interested in having robust, strong expanded, trade. I am very interested in finding ways by which we can force open foreign markets. But the record is abysmal. We agreed to NAFTA, GATT, and we do United States-Canada agreements.

The fact is that very little has changed in the behavior of China, Europe, Japan, and other countries. Our country leads the way in unilateral behavior in international trade that says our market is open. Our country ought to use its leverage to say we are going to hold up a mirror. If your market isn't open to us, you go sell your trinkets, trousers, and cars somewhere else. And, as soon as you understand that other marketplaces don't offer you what our market does, you come back and agree to open up your marketplace to American businesses and American workers. Then we will have reciprocal trade that is fair to both sides, that is multilateral, and that is beneficial to us, and the countries with whom we do trade agreements.

I believe we are about ready to have the chairman and ranking member come.

I am very happy to offer an amendment as soon as they are interested in coming. I think they have lengthy opening statements. I will also have an opening statement at some point to amplify these remarks. But I am anxious to offer an amendment this afternoon. I am anxious to have a vote on an amendment, for that matter. If they come and offer their managers' package, give their opening statements, and then let me be recognized to offer an amendment, we could debate the amendment for an hour and then we could have a vote today. I would be happy to do that.

The PRESIDING OFFICER. The deputy majority leader.

Mr. REID. Mr. President, the Senator from North Dakota has been very patient and persuasive, as he always is. He has been in the Chamber on several different occasions wishing to speak. He has a lot to say about this legislation. He has indicated he has a number of amendments. I have spoken to him about some of the amendments. They sound pretty good to me.

The manager, Senator BAUCUS, the chairman of the Finance Committee, should be in the Chamber soon to lay down that managers' package. I was in touch with him just a few minutes ago. But he is not here now.

## EXTENSION OF MORNING BUSINESS

Mr. REID. So, Mr. President, I ask unanimous consent that the Senate be in a period of morning business until 3 o'clock this afternoon with Senators allowed to speak for a period of up to 10 minutes each.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

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

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

Mr. GRAMM. Mr. President, are we now in a period of morning business?

The PRESIDING OFFICER. We are in a period of morning business with each Senator allocated up to 10 minutes to speak.

Mr. GRAMM. Mr. President, I ask to be recognized, then, to speak.

The PRESIDING OFFICER. The Senator from Texas.

## TRADE PROMOTION AUTHORITY

Mr. GRAMM. Mr. President, to this point, I have not come over and spoken on the issue before us; which is trade promotion authority, and then all of the little cars that have been attached to this big, powerful, important engine. So while we are in the midst of doing these negotiations, I want to simply make a few points.

Let me, first, say that I take a back seat to no Member of the Senate and to no one in public life in supporting trade. I am a free trader. I support trade. I think it is the most powerful engine for economic development in history. I would support a free trade policy worldwide. I am for trade promotion authority.

When Bill Clinton was President, I said it was an outrage that we did not give him trade promotion authority. And I think it is an outrage that we have not yet given it to President Bush. I am very hopeful we are going to give it to him. In fact, I am confident we are going to give it to him. But I am a little bit concerned because what we have is sort of a gamesmanship going on. I guess ''hostage taking''

would be the best analogy people would understand.

We have historically had a situation where the House has been very questionable on the trade issue. Congressional districts tend to be small, especially in big States, and it is easy for individual Members to have very parochial interests. It is much harder for Senators because every Senator is a farm State Senator, every Senator has a diversity of economic activity in their State. The net result of that is—not that Senators are wiser people than Members of the House; I doubt if they are—we have consistently had over 70 Senators who have been pro-trade on issues we have used as measures of trade: giving trade promotion authority, giving WTO membership to China, and other trade-related issues.

So when the House passed trade promotion authority, in an extraordinary act of political leadership—I would have to say that never in my adult lifetime have we had leadership in the House of Representatives as effective as the leadership team is today—never. Their leadership, in passing trade promotion authority, was nothing short of extraordinary. But once they did that, it was obvious to a blind man that we were going to pass trade promotion authority. And then the question became, When and under what circumstances?

We passed a bill in the Finance Committee by an overwhelmingly bipartisan majority to send trade promotion authority to the floor.

I would have to say our trade promotion authority bill has some sort of silly statements in it, almost nonsensical. But the substance of the bill is excellent. I congratulate the chairman and the ranking member. America is not going to get anything but richer, freer, and happier if we adopt this trade promotion authority bill, and adopt it just as it is written. I do not intend to support an amendment to it.

If all we were doing were bringing trade promotion authority to the floor, my guess is, in the end, we would get about 70 votes. But now, extraordinarily, we have people on my side of the aisle, who have never voted for trade before, who are saying: Well, I will vote for trade promotion authority if you will add all these new entitlements, all these new, committed, long-term spending programs. Well, great, but we already have 20 too many votes. Lyndon Johnson used to say: If you can get more than 55 votes in the Senate, you gave away too much.

So I appreciate people who are willing to become the 71st or 72nd, but the idea that we are going to put on all these new spending programs, that will help bankrupt the country in the future, to get 71 votes instead of 70, that is a nonstarter to me.

I also say to our Democrat colleagues, they need to pass this bill as badly as we need to pass it because this bill is in America's interest.

When the votes are cast, we are probably going to get 44 or so, I guess, Republicans to vote for it, and my guess is we are going to get 26, 27, 28 Democrats, after all is said and done, on a clean bill.

Republicans are more pro-trade than Democrats. But, look, Democrats do not want to go to the high-tech industry of this country, which is critically dependent on exports, and say: We killed fast track when the House passed it.

Now, why do I go to all this trouble to say both sides of the aisle are for this bill? The reason I do is, now that it is clear this bill is going to pass—it is going to pass by a big vote—all of a sudden people are saying, well, look, we will not vote for it unless you pay tribute, unless you take some totally extraneous issue to trade promotion authority, and combine it, and create these massive new benefits for people—and I am going to talk about that in just a moment—unless you do that, we are not going to vote for it.

The point is, if we had a clean vote on trade promotion authority, under the worst of circumstances, it would pass. It is true that the majority probably could tie this up in parliamentary knots, and this could go on and on and on, but who is kidding—I started to say, who is kidding whom, but I am not sure that is proper grammar.

This reminds me of the O. Henry story, Ransom of Red Chief, where a couple of lowlifes kidnap a child, and this kid is a terrible brat.

So they contact the kid's parents asking for ransom, and they say, no, they don't want him back. And so the kidnappers are stuck with this kid. The story ends with the kidnappers paying the parents to take the child back.

That is the game we have underway here. Our distinguished majority leader is saying to us: If we don't pass this new entitlement, we are not going to pass trade promotion authority. Some people may be fooled, but I am not fooled. I want to pass trade promotion authority, and I want to pass it because I believe in it. But I don't believe I want to pass it any worse than the majority leader wants to pass it.

This bluff may work. But I am a firm believer, if you know people aren't going to shoot the hostage, don't pay the bribe.

Now, let's talk about the bribe. Here is where we are. We currently have a law called trade adjustment assistance. In my opinion it is fundamentally wrong. What it says is the following: We have two workers, Joe and Sarah. Sarah works for a company that is destroyed in a terrorist attack, and Joe works for a company that becomes noncompetitive and shuts down and is able to claim that foreign competition had something to do with it.

The person who works for the company that was destroyed in a terrorist attack gets unemployment insurance. That is it. But the person who works for the company that became noncompetitive—something that employee may well have had something to do with—gets much more generous benefits.

I don't understand that. We have two Americans. They both work for companies.

The PRESIDING OFFICER. The Senator has used all his time.

Mr. GRAMM. I ask unanimous consent for 10 additional minutes.

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

Mr. GRAMM. We have two workers in America. They both work. They are both citizens. They are both guaranteed under the Constitution equal protection of the law. Yet the worker whose business is destroyed in a terrorist attack—something they have had no ability to have any impact on—gets one set of benefits. But a person who works for a company that becomes noncompetitive and goes out of business gets an entirely different and more generous set of benefits, even though we might argue at the margin—and I am not arguing it, but you might argue—that maybe they could have had potentially some effect on it, whereas a worker with a company that is destroyed by terrorism could have had no effect on it.

I have always been struck with this trade adjustment assistance, how it can make sense to treat people differently, both of whom are unemployed, simply because one lost their job to foreign competition or can claim it, and the other one can't.

Forget all that. That is an old injustice. I hadn't gotten over it. Maybe I should have.

But now we come along with a new trade adjustment assistance bill that says, in addition to this more generous benefit package, we are going to give it not just to people who lose their jobs to foreign competition, we are going to give it to people who say their job was related to the job that was lost because they were suppliers, or that their job was related to the job that was lost because they were selling things to the people who lost their jobs. I guess in the extreme, if you are a dairyman and people at this factory were buying milk, you could claim trade adjustment assistance.

Then they add a brand new extraordinary benefit, and that is the Government is now going to pay 73 percent of your health insurance when you are unemployed. In fact, one of our colleagues today said that is the amount you get if you are a Senator. Well, lose your election and find out how much you get—zip, zero.

Here is the point: How can we justify taxing workers who don't get health insurance in their jobs when they are working to provide 73 percent of the health care cost for people who are unemployed? When we don't have health insurance for many people who are working, how can we justify taxing them to pay for benefits for people who are unemployed? And if we provide this benefit, A, we are going to have to pay for it. And, B, how can we justify not

giving it to people who are working when we are giving it to people who are not working?

Currently only about one out of every four people who qualify for trade adjustment assistance take the benefit. Most of them don't take it because it is more generous than unemployment, but it is generally not as good as getting another job. I would say if you lost your job to trade, trade promotes jobs generally, your chances of getting another job in the economy are probably better.

But in any case, I think the question we have to ask ourselves is the following: If one-fourth of the people who are eligible take the benefits now, don't you think the number will go up when the Government is going to pay 73 percent of their health care costs?

My guess is we might even see as much as a quadrupling of the people who take trade adjustment assistance. We get numbers tossed around about how many billions of dollars this new benefit will cost. But nobody knows because we don't know how we are going to change behavior with it. And how many people who now go out and get a new job would not go out and get a new job if they have 73 percent of their health care costs being paid for while they are unemployed?

These are questions to which we have no answers. I remind my colleagues, last week we discovered that a budget that had a huge surplus last year was $130 billion in deficit this year, with us spending every penny of the Social Security surplus. Our colleagues often like to talk about it. They want to protect the Social Security surplus. Yet we are talking about imposing a rider on this trade bill that is going to cost billions of dollars, and every penny of it is going to come right out of the Social Security surplus. Much of it is going to be borrowed.

My view is that we should not pass this bill with this provision on it. It is subject to a point of order, or at least I believe it will be if we ever see the bill. It seems to me it is perfectly consistent—in fact, I think it is the definition of consistency—if we believe we need trade promotion authority and we ought to have a freestanding vote on it, and then if the Senate wants to bring up trade adjustment assistance, it ought to do that. But the idea of tying the two together—they didn't come out of the Finance Committee together—is fundamentally wrong.

There are a whole lot of other problems. For some reason, our Democrat colleagues have concluded that while we are going to pay 71 percent of the health care bills for the people who are drawing this trade adjustment assistance, we are not going to let them choose their health insurance.

Freedom is dangerous. If we start letting them choose their health insurance, God knows what they are going to want to be able to choose next.

So, extraordinarily, there is a provision in this bill that says you have to buy exactly the same insurance you had when you had a job and your company was a big part of buying the health insurance. How many people who are unemployed—say you lost your job with General Motors where they are notorious for having benefits such as first-dollar coverage—how many people want to be forced to buy that same benefit when they are unemployed?

Doesn't it seem logical to you that if you are unemployed, you might take a higher deductible so the money you got from the Government would buy you a larger share of your cost, so that the 29 percent you would have had to pay could go to help send your children to college or buy a training program? Why do we have to make people buy the Cadillac health insurance policy when they are unemployed, when they might choose to buy the Chevrolet policy?

I have a very hard time understanding those who would impose this on us saying, no, you cannot let these people choose. My position is, if you are going to provide this benefit, which, A, I don't believe we can afford and, B, I don't know how you justify giving to some people and not others, why not let them pick and choose the health care coverage that is best for them? Why not allow them to buy a Chevrolet policy when they were getting a Cadillac policy—when the company was paying for almost all of it—when it is partly their money? I don't understand why we have to do that.

So I wanted to come over today to simply make a these points: One, I am for trade promotion authority. Two, I think we ought to pass it as a clean bill. Three, I assume there will be a point of order against trade adjustment assistance, and it would be my intention to make the point of order against that provision. There is not a point of order against trade promotion authority. So I am hopeful we can come to some accommodation.

Finally, the one thing you learn when you are a member of a legislative body, such as the Senate, is that seldom do you get things the way you want them, that almost always there is some kind of compromise. I think we should pass trade promotion authority freestanding. But if we do end up with a compromise on trade adjustment assistance, I think we are a long way from being there. I think it needs to be very narrowly defined to be benefits for people who really lose their job due strictly to trade. I think you have to make this benefit affordable, remembering you are going to be taxing working people, who don't get health insurance, to buy Cadillac coverage for people who are unemployed. How can anybody believe that is rational?

How would you justify at a town meeting if some guy stood up and said: I don't get it. I work at the local company that sells tires, and I change tires, and I don't get health insurance through my job. But you are taxing me to buy first-dollar-coverage health insurance for somebody who is unemployed. Why do you treat unemployed people better than you treat employed people? I don't get it. I am not going to have to answer that question because I am going to say it is stupid, typical of Government, and I am not for it. Of course, normally, somebody back in the corner says: Yeah, but you were there when it happened. It always bugs me when that happens. But it hasn't happened yet, and I am going to do my best to see that it doesn't happen. I wanted to cover all these issues.

I hope we can get on with trade promotion authority. I hope we can work something out. I know the President wants this. There have been more than 130 trade agreements reached worldwide, to date, of which we are not a part. When our trading partner, Mexico, has entered into nine free trade agreements covering 26 countries and the U.S. has entered into three trade agreements, NAFTA, Israel and Jordan, covering four countries, and when we have not entered into these trade agreements because we don't have trade promotion authority, something is wrong. This is the greatest trading country in the history of the world. I hope we can get on and pass the bill in a rational way.

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

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant bill clerk proceeded to call the roll.

Mr. NELSON of Florida. 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. NELSON of Florida. Mr. President, I ask unanimous consent to speak as in morning business on the matter of this trade bill that is before us.

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

## FREE TRADE

Mr. NELSON of Florida. Mr. President, as we move more to a global economy, I would note that the United States, over the course of time, has been a driver of economic prosperity because of the ingenuity of our people, because of the technological prowess we have, and because of the edge we have over many other countries in our competitiveness with regard to computers.

I think back to when we were in the great space race, after the Soviets had surprised us by launching the first satellite Sputnik—we finally got Explorer up—and that shook the Nation to its core. Then suddenly, the Soviets surprised us again by getting into orbit with a human, Yuri Gagarin, before we could ever get off the pad with Alan Shepard trying to go into suborbit because we did not have a rocket that was strong enough to get that Mercury capsule up into orbit.

So we went into suborbit with two flights before, then 10 months after, Gagarin. We finally launched John Glenn—a former Member of this body—into orbit aboard an Atlas rocket, and the space race was on. That was when there was that very significant leadership decision made by President Kennedy who said: We are going to the Moon and back in the decade; and America put its efforts behind its will to succeed, and we developed the technology which led us to get there and back safely before the Soviets did.

Finally, the Soviets abandoned their efforts to go to the Moon with a human because they did not have the sophistication we had in our computer technology, sophistication that could help direct a spacecraft on reentry so that its trajectory could be such that human life would not be completely eliminated because of the G forces on a spacecraft on reentry.

I give that as one illustration of America's creativity and inventiveness when we set our minds to it. Thus, in the globalization of our markets on trade, whatever the products may be, America has had an advantage. We use our educationally developed workforce, we develop technology, and that is what we are very good at: exporting around the world. Thus, there is every reason for America to want to be engaged in international trade as long as it is free and fair trade. I am a free trader. That is how I usually will vote. That is how I usually voted as a Member of the House of Representatives over a 12-year period of public service.

We are confronting an aspect of trade that concerns me because it is not free and fair. It is going to affect one of the major economic interests in my State of Florida. Many States have automobile license tags indicating something of particular interest to each State. So it is with the Florida automobile license tag. We have an image of an orange emblazoned on our license tag, which is reflective of the considerable pride we have as well as the economic dominance of our Florida citrus industry.

That industry is threatened. Its very existence is threatened. Frozen concentrated Orange Juice production in Florida, is facing a life or death situation. I hope that as I continue to make speeches about the threat to this industry, that the White House is listening to a State that is very important to this White House. It was Florida, as we all know, that won the Presidency. There is a lot at stake in our State. It has to do with this trade bill.

Free and fair trade could quickly turn into a monopoly of trade for Brazil on frozen orange juice concentrate. It could turn into a monopoly because Brazil produces approximately 50 percent of the world production of frozen orange juice concentrate. Florida produces 40 percent of the world production. That 40 percent supplies the domestic market for orange juice. Indeed, it has been the Florida Citrus Commission advertising over the last half century that now causes orange juice to be a staple on breakfast tables in America.

We find growers in Brazil forming, in essence, a cartel, which can start dumping extra product on the market, undercutting the price for Florida, and running Florida out of the business if there isn't a tariff protecting our domestic market from the invasion of Brazilian frozen orange juice.

That brings me to the trade bill. The trade bill puts that protective tariff at risk, unless we can attach an amendment to the bill offered by Senator GRAHAM and myself, an amendment that would not apply just to orange juice but to other commodities, as well. The amendment says if there is an order in place by either the International Trade Commission or the Department of Commerce, an order in place indicating that there is anticompetitive behavior, then you cannot reduce the tariff until after that order is taken off.

That is common sense. If there is anticompetitive behavior, in the form of dumping, and therefore trying to run down the price by dumping, that is not free and fair trade. Or if there is another type of order from the Department of Commerce in place, a countervailing duty order that says a foreign government is subsidizing that product of that foreign country in order to give them a competitive advantage, that, in essence, is anticompetitive market behavior. If that kind of order is in place, you cannot reduce the tariff until those two respective organizations—the International Trade Commission and the Department of Commerce—have removed their orders.

It does not have to be orange juice. It could be steel. It could be honey in a State like Montana. It could be salmon production from the Pacific Northwest. It could be any of these products on which there are orders against foreign competitors that have been participating in anticompetitive activities. That is why we have the protection of these orders from either the International Trade Commission or the Department of Commerce. Until those orders are lifted because the anticompetitive behavior of the foreign companies disappears, we cannot reduce the tariff.

It is my hope the good common sense of this type of approach will be recognized by the administration. They think they have the votes to pass the trade promotion authority bill in this body—they may—but I am going to keep raising this issue. Somebody needs to keep raising it. Then, again, maybe they don't have the votes. Or maybe they don't have the votes within the timeframe they think they have.

It is a matter of ultimate fairness of free and fair competition in the global marketplace that we are trying to achieve at the end of the day, which is free and fair trade. Thus, I wanted to bring to the attention of the Senate and the White House my renewed plea on behalf of Senator GRAHAM and myself, with regard to the interests of the Florida citrus industry, that the administration should be willing to work with Congress to accept this amendment for the protection of free and fair and truly competitive international trade.

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

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

The legislative clerk proceeded to call the roll.

Mr. EDWARDS. Mr. President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. EDWARDS. I ask unanimous consent I be allowed to speak for up to 3 minutes as in morning business.

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

## THE MEDICAL CONDITION OF SENATOR HELMS

Mr. EDWARDS. Mr. President, I want to report to my colleagues. As probably all are aware, our friend and colleague, Senator JESSE HELMS, had heart surgery recently. We have all been monitoring his progress very carefully and closely. I have been speaking with those in his office and his staff who are working so hard and so diligently to keep up Senator HELMS' operation here in the Senate and back in North Carolina while he is recovering from his heart surgery.

The most recent report as of today is that Senator HELMS is progressing. He is progressing in the manner in which his physicians would have expected.

Senator FRIST, along with others, has been watching and monitoring his care and recovery very carefully. I am told by members of Senator HELMS' staff that his progress is exactly as anticipated. They are feeling optimistic. The doctors are feeling optimistic. Hopefully, before too long, we will have Senator HELMS back with us.

We also want Senator HELMS, his wife Dot, whom we all love and adore, and the members of his family, plus the members of his staff who are so devoted to him, to know that all of us, all his friends, all his colleagues, are thinking about him constantly. He is in our prayers daily. We will continue to pray for his rapid recovery.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. STABENOW). Without objection, it is so ordered.

FOREIGN RELATIONS AUTHORIZATION ACT, FISCAL YEARS 2002 AND 2003

Mr. REID. Madam President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H.R. 1646, a bill to authorize appropriations for the Department of State, and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1646) to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3385

Mr. REID. Madam President, it is my understanding that Senator BIDEN has a substitute amendment at the desk which is the text of S. 1803 as passed by the Senate on December 20, 2001. I ask unanimous consent that the amendment be considered and agreed to and the motion to reconsider be laid upon the table.

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

The amendment (No. 3385) was agreed to.

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

Mr. REID. Madam President, I ask unanimous consent that the bill, as amended, be read a third time and passed; that the motion to reconsider be laid upon the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate, with no intervening action or debate.

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

The bill (H.R. 1646), as amended, was read the third time and passed.

The Presiding Officer (Ms. STABENOW) appointed Mr. BIDEN, Mr. SARBANES, Mr. DODD, Mr. KERRY, Mr. HELMS, Mr. LUGAR, and Mr. HAGEL conferees on the part of the Senate.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to a period for morning business for 15 minutes, and that the Senator from Arkansas, Mrs. LINCOLN, be recognized for that 15 minutes to speak in morning business.

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

The Senator from Arkansas.

U.S. INDEPENDENT FILM AND TELEVISION PRODUCTION INCENTIVE ACT OF 2001

Mrs. LINCOLN. Madam President, I rise to discuss the U.S. Independent Film and Television Production Incentive Act of 2001. We are going to begin the debate about trade and the initiative of being a part of the global economy. We are going to talk about trade as an important tool in helping to revive and build our economy in our great Nation, as well as building jobs and certainly educating our workforce and building industries in our country that are going to be part of this global economy in which we find ourselves. The U.S. Independent Film and Television Production Incentive Act of 2001 is a bill designed for those purposes.

This is a bill designed to address the problem of runaway film and television production which is a major trade-related issue which costs our Nation billions of dollars each year.

Over the past decade, production of American film projects has fled our borders for foreign locations, a migration that results in a massive loss for the U.S. economy. My legislation will encourage producers to bring feature film and television production projects back to the cities and towns across the great United States, thereby stemming the loss we have seen in our economy from those runaway films.

In recent years, a number of foreign governments have offered tax and other incentives designed to entice the production of U.S. motion pictures and television programs to their countries. Certain countries have been particularly successful in luring film projects to their towns and cities through such offers as large tax subsidies.

These governments understand the benefits of hosting such productions do not flow only to the film and television industry; these productions create ripple effects, with revenues and jobs generated in a variety of local businesses: Hotels and restaurants, catering companies, equipment rental facilities, transportation vendors, even our State parks and other wonderful characteristics that each of our States has such an individual way of expressing and the wonderful things they have to offer, and many other benefits that fall into this ripple effect.

What became a trickle has now become, however, a flood, a significant trend affecting both the film and television industry as well as the smaller businesses they support.

Many specialized trades involved in film production and many of the secondary industries that depend on film production, such as equipment rental companies, require consistent demand to operate profitably.

This production migration has forced many small and medium-size companies out of business during the last 10 years. Earlier this year, a report by the U.S. Department of Commerce estimated that runaway productions drain as much as $10 billion per year from the U.S. economy. These are dollars on which we have depended, that have been a vibrant part of our smalltown communities across the United States as well, places where we have seen wonderful movie productions because of the tremendous amount of incredible scenery our States produce.

These losses have been most pronounced in made-for-television movies and mini-series productions. According to the report, out of 308 U.S.-developed television movies produced in 1998, 139 were produced abroad. That is a significant increase from the 30 that were produced abroad in 1990.

The report makes a compelling case that runaway film and television production has eroded important segments of a vital American industry.

According to official labor statistics, more than 270,000 jobs in the U.S. are directly involved in film production. By industry estimates, 70 to 80 percent of these workers are hired at the location where the production is filmed. Those would be the workers in the small communities of my State as well as the State of the Presiding Officer.

While people may associate the problem of runaway production with California, the problem has seriously affected the economies of cities and States across the country, given that film production and distribution have been among the highest growth industries in the last decade. It is an industry with a reach far beyond Hollywood and the west coast.

Even we in Arkansas feel it. For example, my home State of Arkansas has been proud to host the production of a number of feature and television films, with benefits both economic and cultural. Our cinematic history includes opening scenes of ''Gone With the Wind'' and civil war epics such as ''The Blue and The Gray'' and ''North and South.'' It also includes ''A Soldier's Story,'' ''Biloxi Blues,'' ''The Legend of Boggy Creek,'' and most recently, ''Sling Blade,'' an independent production written by, directed by, and starring Arkansas' own Billy Bob Thornton.

So even in our rural State of Arkansas, there is a great deal of local interest and support for the film industry. My bill will make it possible for us to continue this tradition, and we hope to encourage more of these projects to come to Arkansas and to other States across our Nation.

To do this, we need to level the playing field. This bill will assist in that effort. It will provide a two-tiered wage tax credit, equal to 25 percent of the first $25,000 of qualified wages and salaries and 35 percent of such costs if they are incurred in a low-income community, for productions of films, television or cable programming, mini-series, episodic television, pilots or movies of the week that are substantially produced in the United States.

This credit is targeted to the segment of the market most vulnerable to the impact of runaway film and television production. It is, therefore, only available if total wage costs are more than $200,000 and less than $10 million, which is indexed for inflation. The credit is not available to any production subject to reporting requirements

of section 18 of the United States Code 2257 pertaining to films and certain other media with sexually explicit conduct.

My legislation enjoys the support of a broad alliance of groups affected by the loss of U.S. production, including the following: national, State, and local film commissions, under the umbrella organization Film US as well as the Entertainment Industry Development Corporation; film and television producers, Academy of Television Arts and Sciences, the Association of Independent Commercial Producers, the American Film Marketing Association and the Producers Guild; organizations representing small businesses, such as the postproduction facilities, the Southern California Chapter of the Association of Imaging Technology and Sound; equipment rental companies, Production Equipment Rental Association; and organizations representing the creative participants in the entertainment industry, the Directors Guild of America, the Screen Actors Guild, and the Recording Musicians Association.

All of these are great Americans who want to keep their work in our country, but if it is cost prohibitive, if the objectives and the incentives that are provided by these other nations are given to this industry that we do not provide, what other choices are they given other than to take those jobs, to take those wages, out of our country and take them somewhere else?

In addition, the U.S. Conference of Mayors formally adopted the Runaway Film Production Resolution at their annual conference in June.

Leveling the playing field through targeted tax incentives will keep film production, and the jobs and revenues it generates, in the United States.

I urge all of my colleagues, as we talk about trade, as we talk about being a part of this global economy, as we talk about creating the jobs we want, that we have, and we would like to keep in the United States, to join me in supporting this bill in order to prevent the further deterioration of one of America's most important industries, and the thousands of jobs and businesses that depend on it.

Think of what it could do for small towns, for the main streets of America, to have a film produced there. They would not only have the cultural advantage, the economic advantage but the sense of pride and joy in being able to keep this industry in our country and doing what everybody can be most proud of, and that is sharing our home States and all of the many things we are all proud of in our home States in the production of American films.

## PRESCRIPTION DRUGS

Mrs. LINCOLN. Madam President, as in morning business, I will talk a little bit about an issue that I think is probably the most paramount issue in the State of Arkansas and also probably the most paramount issue across this great Nation, and that is the issue of the Medicare coverage of prescription drugs for our elderly. We have debated this issue for quite some time. I advocated that Congress add a universal voluntary prescription drug benefit to Medicare when I first started campaigning for the Senate in 1998. Five years later, we still have not passed a plan. We have to begin moving forward on this initiative, as I look across the great State of Arkansas and recognize the number of elderly in my State who would benefit from such a plan.

More importantly, we also have to look at how we as a government, in the economics of today, would benefit from a prescription drug plan for our elderly. If we do not want to do it for the quality of life for our elderly relatives, our grandparents, our parents, and all of those we love and adore, we should at least want to do it for the economics of this country because we know, without a doubt, particularly in rural America, that in providing a prescription drug package we are going to save dollars down the road because we prevent those elderly, when they are on a prescription drug, from having to have the more costly acute hospitalization or nursing care, or perhaps some of the more expensive home health care which they might need if we can simply keep them on a prescription drug plan that they so drastically need.

Both structure and costs of the benefit have been the main issues holding us up, but we have to move beyond those difficulties and those problems that we have in structuring cost.

I think back to last summer and some of the other members of the Senate Finance Committee with whom I was working. We were moving forward on coming together with a good compromise and working through the details of what we could see as being a beneficial plan for everyone in this country. Then, unfortunately, the events of 9–11 occurred. We, in the Congress, obviously, have had a great deal to deal with since then. We have talked about homeland security, our airport security, our national security, and the foreign affairs that come along with all of the issues we have dealt with since 9–11.

I do sincerely believe that now is the time we must remember what are the most important issues with which we have to deal on the homefront, particularly before we conclude this Congress. We must begin now with a prescription drug package if we clearly intend to come up with something by the end of this session, and I think we must look earnestly, not only at what we can afford but, more importantly, how we can get the biggest bang for that buck and how we can be assured that the majority of the elderly, particularly those who are in the greatest need, will receive a benefit package. Seniors need this now more than ever. We have to enact that benefit which is adequately funded and guaranteed to be universal, affordable, and accessible.

We have looked at some of the plans that have come out recently, and, unfortunately, they do fall very far short of what our seniors need. Much of the money has gone into some of the private areas that actually present me with great concern. Medicare+Choice, for instance, the last three Medicare+Choice plans in Arkansas were pulled out the end of December of last year. Not a single one of those three plans offered a prescription drug package. Medigap in Arkansas is disproportionately higher in cost than it is nationwide. So it does not provide the service, it does not provide the safety net, it does not provide the benefits that Arkansans need, and it comes at an exceptionally high price.

We have to look at putting competition in, but we have to make sure it is a benefit package that is going to work for all areas of this great country. We want to continue to work on this. Rural beneficiaries in my State are more likely to have poor health and lower incomes than seniors living in urban areas. They also use more prescription drugs.

That is one of the reasons I am here today. This is an extremely powerful issue in America and across rural America. We are only as strong as our weakest link. If rural America happens to be that weak link now, we must address those problems. Putting a plan into place that only gets at the problems of the urban areas or the highly populated areas is not going to work because it will continue draining the overall system in rural areas.

In Arkansas, 60 percent of seniors live in rural areas. I am extremely concerned about the limited prescription drug coverage available to them. Only 14 percent of Arkansas employers offer retiree health insurance. Only 2 percent of rural Arkansans are enrolled in managed care, which goes to show one size does not fit all. We have to come up with a comprehensive plan that has enough flexibility that we can make it fit all regions of this great Nation, but that we can do so in a way that is cost effective and cost efficient.

Medicare+Choice plans do not work in our rural States anymore, and Medigap coverage is out of reach for most seniors.

This is an essential issue with which we have to deal. We must come together. We must come up with a compromise. We must come up with a sound policy that will not only provide the quality of life we want for our loved ones but also a huge part of stabilizing our economy in this great country in a time when health care has blown completely out of proportion.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. I ask unanimous consent to be recognized in morning business.

Mr. REID. If my friend from Florida would withhold for a minute, we are near the time where the majority leader will come to the floor. It should be

another 10 minutes. Is that adequate time for the Senator?

I ask unanimous consent the Senator from Florida be recognized for up to 10 minutes to speak as in morning business.

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

Mr. NELSON of Florida. Madam President, I compliment the Senator from Arkansas for her excellent statement about health care. As the Senator pointed out the need for a prescription drug benefit to modernize Medicare, it reminded me of an unbelievable story. I don't know that it is fact, but it sounded pretty solid.

The White House is floating a plan that someone on home health care would have to have a copay through Medicare in order to get that service. Certainly in our part of the country, home health care is an alternative to the more expensive care of a nursing home, and clearly it is a lot more expensive being in a hospital. And home health care, despite the expense, is clearly a lot better quality of life for the senior citizen than being in a nursing home or in a hospital if they can be medically treated appropriately and successfully in home health care.

The Senator talked so eloquently about medical care in the State of Arkansas. Would it not be devastating to senior citizens to have a copay on home health care that they now do not have under Medicare?

Mrs. LINCOLN. In some areas, it has gotten difficult even finding home health care that will serve rural areas. Certainly for myself, with aging parents who are at home and independent, home health care is essential.

If the question is whether or not they will serve and whether or not those individuals can afford or are able to provide a copay, it will be devastating.

In my home State of Arkansas, 49 percent of the people have an adjusted gross income of $20,000 or less. We are a snapshot of what the rest of the Nation is going to be like. Florida has a lot of retirees and elderly, but for us as a percentage of our population, we rank in the top three. We are clearly a snapshot of where the rest of the country is going to be in terms of the percentage of our elderly population and the lack of services. Because we are rural, we have that lack of services.

Even the urban areas will be without the services if we do not look at Medicare reform and we do not start now looking at the ways we can make health care delivery more affordable. Prescription drugs is the most reasonable place to start. We have the technology, we have the development of pharmaceuticals that can help provide that quality of life, and we have home health care out there that can help keep down the costs of acute hospitalization, acute care in nursing homes, and other areas.

Making it cost prohibitive does not increase the availability or the accessibility of health care. We can keep our loved ones in their homes and cared for at a reasonable cost, the Senator is exactly right.

It is so important to recognize we need to start now. We are so underprepared as a nation as to what will happen in the next 15 to 20 years when the baby boomers hit 65 and we have no geriatricians, no physicians, and a nursing shortage. The State of Massachusetts lost 25 or 26 nursing homes last year, all of which were 85 percent or better occupied.

We are not preparing ourselves for what will happen with our population, which is going to increase phenomenally in the aged category. Home health care and providing it in a way that is cost effective is absolutely essential. The Senator from Florida knows, and I am with him without a doubt, we have to make sure we focus on this issue. We need to do it sooner rather than later.

Mr. NELSON of Florida. It is amazing to me where they come up with the ideas from the administration to get savings out of Medicare, particularly when they start talking about making senior citizens pay copays on home health care, which is an activity that is desirable and saves money in the long run by giving seniors an alternative to the hospital and nursing homes that are so much more expensive.

## COMMANDER SCOTT SPEICHER

Mr. NELSON of Florida. Madam President, I rise to address a subject that is heavy on my heart. It goes back to 1991. The first American shot down and declared dead in the gulf war was Commander Scott Speicher of the U.S. Navy from Jacksonville, FL. He was pronounced by the Department of Defense, indeed, the then-Secretary of Defense, as having been killed in action.

We have learned over the intervening 11 years, the evidence strongly suggests Commander Speicher survived being shot down. That credible intelligence report indicates that someone who drove him from the crash site to the hospital has stepped forward as an eyewitness. For 11 years, his family in Jacksonville have pondered the question, Is he alive?

This is truly a gripping human drama. But it is just that more gripping because the U.S. military has a creed among pilots that when you have to punch out, you are going to have a rescue team that will come get you. Against all odds, they will come, try to find you, and get you out alive.

This awful question hangs over the CDR Scott Speicher case that we abandoned him.

So 11 years later, what we need to do is to use every avenue to try to find out, is he alive? Is he in Iraq? If he is, we need to get him out. If he is not, we need to find out the specific circumstances that led to his death after his apparent surviving being shot down in the Iraqi desert.

A couple of our Senators have been involved in this case: Senator BOB SMITH of New Hampshire and Senator PAT ROBERTS of Kansas. There is a Kansas connection with Commander Speicher. I kind of backed into this situation recently when I saw an opening, and I took it.

I was in Damascus, Syria, and spoke to some of our Embassy staff. Did they have any information? They had inquired of the Syrian Government a year ago and had no reply. So later that day, I found myself with Senator SHELBY and Congressman CRAMER in a 2-hour meeting with the Syrian President, President Assad, the son of the long-time Syrian President who had died a couple of years ago and has been succeeded by his son. I saw the opening, and I took it.

I asked the Syrian President if he would use his good offices and task his intelligence apparatus to see what they could find out from Iraq and their contacts with Iraqi intelligence activities.

Madam President, I ask unanimous consent I be allowed to continue until such time as the majority leader arrives.

Mr. REID. Why don't we do it for a time certain because he may never arrive.

Mr. NELSON of Florida. Five minutes?

Mr. REID. How about 5 o'clock?

Mr. NELSON of Florida. I thank the Senator from Nevada, our wonderful assistant majority leader.

This is a very important case that I wanted to explain to the Senate.

We were sitting there with the young President, with whom we have significant differences of opinion in the Middle Eastern crisis. We talked to him about Hezbollah and suggested he should pull off his support of that terrorist activity. We thanked him for his help with regard to our going after al-Qaida—and they have been helpful. We thanked him for his support, protecting our United States interests in Syria, particularly our Embassy that has no setback from the street in Damascus. At the time we were there, there was a 100,000-person demonstration. Of course, they had the riot police lined up shoulder to shoulder to protect our Ambassador's residence as well as the Embassy.

But I saw the opening. I asked him, and he said he would.

Later on, as a member of the Foreign Relations Committee, suddenly I found myself face to face, right over here in our Foreign Relations Committee room in the Capitol, with the Prime Minister of Lebanon. I told him the story. I told him the gripping story of a family; the children want to know, is their daddy alive? And the Prime Minister of Lebanon, Rafic Hariri, said he, too, would see through his good offices and his intelligence apparatus if they could find out any information.

I have spoken to Secretary of Defense Rumsfeld and the Chairman of the Joint Chiefs of Staff, General Myers,

about asking. I have spoken to Secretary Rumsfeld, as recently as 35 minutes ago, about this case.

Because it is Iraq, it puts someone such as Secretary Rumsfeld in a difficult situation because he naturally is concerned, as we all are, about wanting to take out Saddam Hussein who, if he has not built, he certainly will be trying to build, weapons of mass destruction. We are going to have to protect the position of the United States and the free world by not letting him do that. So it makes it difficult for us at this particular time, trying to get information. It is so important in this gripping human drama.

In the late 1990s, the Department of Defense actually changed the status of Commander Speicher from ''killed in action'' to ''missing in action.'' At some point, with further evidence, it may well be that they will consider changing the status, if the evidence is there, from ''missing in action'' to ''prisoner of war.'' That, of course, would be welcome news because that would mean that he is alive. Then we would have to address the question of how to get him home to his loved ones.

It is going to take the attention of a lot of people. I have written to the Embassies in that region of the world, asking our Ambassadors to ask their friends and their contacts, to see if we can get a little snippet of information. We owe this to the family. But we owe it to every military pilot, past, present, and future, who needs to have the confidence to know, if they are shot down, the rescue forces are coming to get them and we are not going to abandon them.

There is now talk that Iraq will invite a delegation to come to investigate. If it is another charade, as were some of the investigations as to whether or not there are weapons of mass destruction, then that is not going to be profitable. It should be a high-level delegation so it will be accorded the respect of the receiving Iraqi Government in order that access will be given. For example, this eyewitness account that he was driven to the hospital from the crash site—what hospital? Let's see the records of the hospital. If he was released from the hospital, where was he sent? Was he sent to a prison? What prison? Let's see the records of that prison. Let's see tangible evidence so we can know the fate of CDR Scott Speicher.

The Nation owes this to our military. The Nation owes it to Commander Speicher's family.

I thank the Chair for the opportunity to share this matter with the Senate.

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

The PRESIDING OFFICER (Mrs. CARNAHAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Madam President, I ask unanimous consent that I may proceed for 10 minutes as in morning business. I understand the leader and others will momentarily be on the floor.

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

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

## THE FARM BILL

Mr. HOLLINGS. Madam President, my plea is to the brothers and sisters in the lodge this afternoon. It came to mind last evening, when I met with the maritime folks that if our Amtrak is about to be phased out in October, and rail transportation is about to end for the passengers, and if the airlines are all in financial difficulty, we need more American construction, American ships, crewed with American crews, and those kinds of things. Yet we are just about to pass a wonderful farm bill.

They have gotten together in a compromise on the farm legislation. This Senator has supported agriculture for nearly 50 years in public office. In fact, I took my farmers to the west coast. I found out, back 40 years ago, that our total farm income in South Carolina was around $380 million, and out in Orange County, CA, one county had $384 million in total farm income. So they knew something more about agriculture than we did. And we had a 100-year start in agriculture in the little State of South Carolina before they had even founded California.

So I have been in the vanguard, in the forefront of developing our corn and our soybeans. The grain elevator was constructed when I was Governor. I could go on down the list of the different caucuses we have developed and the trips we made with the farmers to the markets overseas.

Just please, I ask my farm friends, don't give me this protectionism talk about we are ruining trade and trade relations and trade agreements, having gotten all the subsidies, all the protection you could possibly imagine.

They have gotten this 73-some-odd-billion-dollar farm bill. They get all the subsidies, which I support. And I hope the Senate supports it. They get the Ex-Im Bank to finance.

I see one of my agricultural Senator friends coming to the Chamber. I am sure he is not going to talk about protectionism. I am trying to get some of the farm votes to help us on fast track.

Then they get the Overseas Private Investment Corporation. They get all the help.

I experienced this when I campaigned out in Iowa in the '80s. They had me on an early morning news show there in Des Moines, and they said: Senator, how do you come from a textile State with all that protection and subsidies, and you expect to get the farm vote? They had no idea I did not get any subsidies. I was just trying to hold on to the jobs that we had.

So we need the farmers' help. Don't talk about Public Law 480. I know one of the Senators from Iowa has a favorite. After he gets his subsidies, then he comes on the floor and he says: No. We want to ship our PL–480s, our agriculture, under this Federal act to the other countries of the world because we can do it cheaper.

Well, we can produce agriculture cheaper, too. We almost did with the Freedom to Farm Act, but it did not work. But it can be done. So don't give us: Let's do away with it, having gotten all of mine, then I want yours, too. In essence, the farmers ought to wake up.

I want to show what has happened in agriculture with these charts I have in the Chamber. This chart shows that in 1996, under the Department of Commerce figures, we exported more than $8 billion of corn annually. And you can see where it has gone. It went down in the year 2000 to about $4.5 billion. Now, why?

The Chinese are not only producing textiles, they are producing corn.

I followed the statistical flow downwards of wheat. I asked about the Chinese, how do they do it? And the answer is, they are very clever. Now they are shipping their wheat to Korea, Japan, and other places, and still importing ours so as to keep an appearance of the need for wheat. But, actually, they are exporting more than they are importing.

Let's look at the agriculture surpluses from the chart I have in the Chamber. I want everyone to know that we are not only losing our manufacturing capability, our industrial backbone, but the United States has lost agriculture surplus since NAFTA.

Beginning in 1994 we had about a $1 billion surplus with Mexico and Canada in agriculture. Now that we have free trade, free trade, free trade, we have a deficit of close to $1.5 billion. Well, we are bound to lose with the higher standard of living in the United States of America. We are bound to lose some industrial jobs. But we are going to pick up agriculture.

Ah, no, sirree, we did not pick it up. They are losing their shirt and don't even know it. That is what we want our farmer Senators to know about. They are losing their shirt and don't even know it. They have been going out of business. And you are going back home and saying: Look, look what we have done. We have helped you. You need even more protection.

Here is what has happened with respect to citrus. We went from a $700 million surplus to about $650 million surplus in our exports. We have our Senator here who said it was sort of immoral. We had a moral obligation to go along with the Andean trade pact. They needed help. We are trying to get them out of drugs and tell them to grow bananas and pineapples. That is what it is all about.

What do you think we have gotten from Colombia? Not a thing in that

agreement. From Ecuador, from Bolivia? We did not get anything in that one-way agreement. But here is what happened with citrus.

Now, I do not like to be vindictive or seem to be petty, but I would like to come down to the 17-percent tariff on textiles from the Andean countries and bring citrus down from 50 percent—50 percent, I say to the Senator—down to the 17 percent.

Tell these citrus boys, tell these agriculture boys, don't talk about China and Japan and India, be fair, be fair; Mexico, be fair. Let's be fair to each other. We are all U.S. Senators. We represent one country. And we represent agriculture.

I have agriculture and I have textiles. I have steel. I told a story about Nucor. I am glad President Bush acted.

Here is wheat. Where are those wheat farmers? In 1996, we exported more than $6 billion in Durum wheat. In 2001, we exported less than $3.5 billion.

You are going out of business, Senator. You are gone. I am losing my textiles. You are losing your wheat. They can give us a little tin cup and we can stand out on the sidewalk and beg because you and I are being put out of business. You are a leader here on trying to awake the town and tell the people.

Mr. DORGAN. I wonder if the Senator from South Carolina would yield for a question.

Mr. HOLLINGS. I would be delighted to yield, if we have time.

## ORDER OF PROCEDURE

Mr. REID. Madam President, because of the previous unanimous consent, time is almost gone for the Senator. I ask unanimous consent that the Senator be recognized for another 10 minutes. And I announce, on behalf of the majority leader, there will be no votes this evening.

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

Mr. DORGAN. Madam President, I ask the Senator from South Carolina, isn't it the case that the chart that the Senator shows on durum wheat starts showing a collapse—actually, if the chart started back a bit, it would start showing a collapse almost immediately following the U.S.-Canada Free Trade Agreement. That was a Free Trade Agreement where Clayton Yeutter, who was then our trade ambassador—he had a great disposition. He smiled all the time. And you always felt like the Sun was shining and everything was right, nothing was wrong.

So Clayton Yeutter went up to negotiate with Canada on our behalf, and he came back with the U.S.-Canada Free Trade Agreement.

We didn't learn it until later, but he had just traded away the interests of American farmers because what happened to us was an avalanche of unfairly subsidized grain that came into our country from the Canadian Wheat Board, which is a state monopoly. It would be illegal in this country. But in Canada they shoved all this grain into our country. And then when we went up to try to find out what the prices were so that we could take action against Canada, the Canadian Wheat Board said: Go fly a kite. We don't intend to show you any information.

We have done that for years. The result is that our farmers have been devastated by this unfair trade. This all comes from Clayton Yeutter's negotiations with the Canadians; is that not the case?

Mr. HOLLINGS. That is the case. The distinguished Senator from North Dakota has followed this in a judicious fashion. He and I have worked together, but he has really been the leader to get some sensibility and attention to the dilemma. All we ask on the floor of the Senate is a chance to do our job. In article I, section 8 of the Constitution, it is not the President, not the Supreme Court, but the Congress that shall regulate foreign commerce. This is so we can look at these little side deals and the things that were negotiated that we didn't know about, as the distinguished Senator points out.

The lawyers on K Street and the White House make the need for fast track up. They fix the vote. They don't call it until they have a 60-vote margin to cut off debate. Here we have been waiting dutifully to put up our amendments. And there has been a little difficulty on finalizing the leadership amendment, but once it is filed, we are ready to go. We have been ready to go.

Don't blame us for holding this up for however many days. We are not trying to hold it up. We are just asking the Senate, please kill this so-called fast track. We haven't had it for the past several years. There have been some 200 agreements without fast track. That is what the Senator from North Dakota is speaking to.

Mr. DORGAN. If the Senator will yield for an additional question.

Mr. HOLLINGS. Yes.

Mr. DORGAN. There are so many issues we could talk about—beef to Japan, automobiles from Korea. Let me talk about this issue of wheat from Canada for a moment. It is a fascinating issue. There was a woman from North Dakota who married a Canadian and moved up to Canada. She came back for Thanksgiving or Christmas to North Dakota. And when she was back on the farm, her father said: Take up a couple bags of wheat. She was going to mill that back up in Canada and make bread because we have great spring wheat for making great hard bread. She took back a grocery sack full of wheat. All the way back to the Canadian border she met 18-wheel trucks full of Canadian wheat coming south—hundreds and hundreds of trucks, millions of bushels, every day, every hour.

But when she got to the border with two grocery bags full of grain she was going to grind in order to make bread, they told her: You can't take two grocery sacks full of American wheat into Canada. She had to pour it on the ground at the border, despite the fact that all the way up she met Canadian 18-wheel trucks hauling Canadian wheat south. She couldn't get two grocery bags full through the border near Canada.

How did we end up with that? A circumstance where they are hauling all that grain, coming south from Canada in an unfair way, but you can't get two grocery bags full into Canada because of a trade agreement negotiated by people who were basically incompetent and traded away the interests of American farmers.

Yet here we are being told: Let's not fix the trade agreements we have problems with. Let's give the President the authority to do new trade agreements.

My message is very simple: Fix a few of the problems, just a few, start fixing a few. Demonstrate that there is some backbone in this country to stand up, to have the nerve and the will to fix some trade problems. Then come to us and talk about the next negotiation. But only then and not until then. Fix a few problems first.

Mr. HOLLINGS. As the Senator has pointed out, the blasphemy is that the most productive farmer in the world is the American farmer. The most productive industrial worker in the world is the American industrial worker. What is not producing is us the Congress. Forty years ago, we produced poultry in South Carolina. We produced peaches—in fact, more peaches than the State of Georgia. I landed in Europe. I had the same experience. Leave that on the plane and destroy it. You are not bringing fresh peaches in here, they told me. You are not bringing your poultry in here.

Rules are rules. This isn't aid. This is trade. Everybody looks out for the agricultural strength of their nations. That is what we are elected to office to do. But Heaven above, you would think I was a Communist or something in here trying to stop fast track. Fast track is a dirty, no good political gimmick. Everybody knows that. Yet they continue to go on with this thing to get a fix and not take the responsibility. And then when they have to explain it: Well, it was take it or leave it. I wanted to support the President and everything.

Of course, we all want to support the President. But that is the story. Here it is. We are losing out agriculturally, and the Chinese are the ones winning. When you have 1.3 billion people, they can produce more than our 280 million. They have 600 or 700 million farmers, at least, or more. How many million farmers do we have?

We have about 3.5 million farmers in the United States of America. They are outstanding. I am not belittling them in any sense. But 3.5 million can't produce what 700 million Chinese farmers produce, and at the cost and everything else like that. They don't have

the environmental rules and regs and everything else of that kind.

I appreciate the body yielding the floor. My plea is, let's be fair to each other. Just don't come here and try to do away with the Jones Act now when we are trying to build America. Please don't do away with the industrial strength of the United States, pointing a finger: You are a protectionist; we are not going to start protectionism.

That is what built the country—good, strong protectionism.

Mr. DORGAN. I ask unanimous consent that the Senator be given 5 additional minutes.

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

Mr. DORGAN. Let me ask if the Senator will yield for a question. The Senator comes to the floor often and talks about Ricardo and the doctorate of comparative advantage. I used to teach a little economics in college. There is no doctrine of comparative advantage in most of these unfair trade circumstances. Most of what has happened with respect to advantage is political; that is, the political system of the country decides we are going to have a state monopoly which trades in your country.

Mr. HOLLINGS. That is right.

Mr. DORGAN. So decisions are made to allow 12-year-old kids to work in a manufacturing plant for 12 cents an hour. That is unfair. Manufacturing plants to operate without safe working places. Manufacturers will dump chemicals into the streams and the air and send the product to the store shelves in Pittsburgh and Los Angeles and Fargo and Charlotte. That is unfair. These are political decisions in countries around the world about the conditions of production.

People listen to the Senator from South Carolina, and some are going to say: It is the same old stuff. He just wants to be a protectionist.

In my judgment, there is nothing wrong with protecting American interests and requiring fair trade. If that is what protecting is about, sign me up. I want to protect our country's economic interests. But I believe the Senator from South Carolina feels as I do. I support expanded trade. I believe expanded trade is healthy. I believe we can compete anywhere in the world. But I demand fair trade. When trade is not fair, this country has a responsibility to stand up for its producers. It has failed to do that time and time again. Is that not the case?

Mr. HOLLINGS. That is the case. The unfairness of it is here in the ''Foreign Trade Barriers'' book from 10 years ago. I think we spotted it with about 260 pages and 10 years hence that we got free trade. We are getting rid of the barriers, remember. We are helping out agriculture by decimating our industrial strength. I am trying to open the eyes of my farmer Senator friends. Instead of 260 pages, this book is 453 pages. When I held up this book yesterday, it was very interesting. Oh, it just put these fleet a flitter. They gathered around and you can tell the fixes they got—we are trading more. Well, wait a minute, you are getting more trade agreements? Your debate has been all year long that you are losing out on the agreements, that we are passing them by. All these countries are getting agreements and we are not getting any. Of course, that is not the case.

Let's look now and see. For example, Korea had 10 pages of restrictions here in 1992. In 2002, they have gone to 27 pages. Japan has gone from 18 pages of restrictions to 42—they are not lowering barriers.

The European economic community, 32 pages in 1992. They have come down to 20 pages. We are doing pretty good there. I hope we can do better than with bananas. We don't even produce a banana. These special Trade Representatives ought to be embarrassed. India's was 8 pages, and it went up to 14. You can see what is happening in these countries—where we are supposed to be lowering the barriers, we are increasing them with trade agreements.

So, come on, let's stop, look, and listen. Give each Senator a chance to stop, look, and listen. Don't give me those fast tracks and whip it on through with the special interest lawyers. I tell my textile people, the lawyers are working this thing on K street; I have nothing to do with it. By the time I get a bite at the apple and a chance to even discuss it, they give me limited time, and the vote is already fixed. Nobody listens because the vote is already fixed. So why pay attention to the thing? Let's move on. We have to get our work done around here. So nothing happens. We are supposed to learn and exchange views from all parts of the country.

When I came here 35 years ago, I tell you it was an educational experience. We didn't have TV, so if you wanted to find out what was going on, you were in the cloakroom. There were always 25 to 30 Senators in either cloakroom and you could engage in debate, listen to the other Senators, their experience, and their constituent needs and things of that kind. And then we had a concurrent majority to move forward for the good of the country.

Mr. DORGAN. Will the Senator yield for one additional question?

Mr. HOLLINGS. Yes.

Mr. DORGAN. Senator HOLLINGS raised the issue of bananas. I wanted to explore that for a moment. Is it not the case that our country had a big fight with Europe about bananas?

Mr. HOLLINGS. Yes. One fellow from Ohio gave a lot of political contributions. We didn't have any bananas. Do you know where they grow bananas?

Mr. DORGAN. No. We were fighting with Europe because they would not allow bananas into the European economies. I mentioned today that we had a dispute with Europe about beef. We went to the WTO and won a case against Europe. You know how we penalized Europe? We said: We are taking action against your truffles and your goose liver and Roquefort cheese.

Mr. HOLLINGS. They have got no embarrassment, I can tell you that.

Mr. DORGAN. We were fighting with Europe about bananas and we don't produce them. Those bananas were coming from the Caribbean, and Europe would not let them in.

Mr. HOLLINGS. JOHN MCCAIN is right—money controls, campaign finance is needed. I can tell you that right now. We haven't gotten it yet. We are moving in that direction about soft money, but we have doubled the contributions and everything else. That was a compromise Senator MCCAIN had to make. Now I have to travel to California, maybe Nevada, and New York, and maybe Missouri even to get that kind of money. I cannot find that in South Carolina. Even a Republican friend—and I have some Republican friends, but they don't want to contribute. If their name appeared in the little news squib, and they might say Saturday night when they go to the club: Why did you give to that Democrat? Why embarrass the family and the wife and everybody else? They just don't give. So I travel around the country, and beg from my friends and try to stay in office. They have been good to me. Here I am. But I cannot get the attention of anybody.

I used to say I would love to serve in the Senate rather than practice law because I not only could make the final arguments, like I used to in the courtroom, but I can go in the jury room and vote. But the vote means nothing. Now the way this thing is geared up, over the past 35 years we don't have a discussion, don't have the deliberateness or the consideration.

I appreciate the distinguished Senator from Nevada yielding. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## ANDEAN TRADE PREFERENCE EXPANSION ACT

The PRESIDING OFFICER. The clerk will state the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under the Act, and for other purposes, which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert the part printed in italic:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Andean Trade Preference Expansion Act''.*

***TITLE I—ANDEAN TRADE PREFERENCE***

***SEC. 101. FINDINGS.***

*Congress makes the following findings:*

*(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact*

*on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.*

*(2) The Andean Trade Preference Act has been a key element in the United States counter-narcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.*

*(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.*

*(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.*

*(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.*

*(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.*

*(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.*

*(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.*

***SEC. 102. TEMPORARY PROVISIONS.***

*(a) IN GENERAL.—Section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) is amended to read as follows:*

*''(b) IMPORT-SENSITIVE ARTICLES.—*

*''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—*

*''(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;*

*''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;*

*''(C) tuna, prepared or preserved in any manner, in airtight containers;*

*''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;*

*''(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;*

*''(F) articles to which reduced rates of duty apply under subsection (c);*

*''(G) sugars, syrups, and sugar containing products subject to tariff-rate quotas; or*

*''(H) rum and tafia classified in subheading 2208.40 of the HTS.*

*''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—*

*''(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles:*

*''(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:*

*''(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States), provided that apparel articles sewn or otherwise assembled from materials described in this subclause are assembled with thread formed in the United States.*

*''(II) Fabric components knit-to-shape in the United States from yarns wholly formed in the United States and fabric components knit-to-shape in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.*

*''(III) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPEA beneficiary countries, from yarns wholly formed in 1 or more ATPEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPEA beneficiary countries) or components are in chief weight of llama, alpaca, or vicuna.*

*''(IV) Fabrics or yarns that are not formed in the United States or in 1 or more ATPEA beneficiary countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.*

*''(ii) KNIT-TO-SHAPE APPAREL ARTICLES.—Apparel articles knit-to-shape (other than socks provided for in heading 6115 of the HTS) in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.*

*''(iii) REGIONAL FABRIC.—*

*''(I) GENERAL RULE.—Knit apparel articles wholly assembled in 1 or more ATPEA beneficiary countries exclusively from fabric formed, or fabric components formed, or components knit-to-shape, or any combination thereof, in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (II).*

*''(II) LIMITATION.—The amount referred to in subclause (I) is 70,000,000 square meter equivalents during the 1-year period beginning on March 1, 2002, increased by 16 percent, compounded annually, in each succeeding 1-year period through February 28, 2006.*

*''(iv) CERTAIN OTHER APPAREL ARTICLES.—*

*''(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of the ATPEA beneficiary countries, or both.*

*''(II) LIMITATION.—During the 1-year period beginning on March 1, 2003, and during each of the 2 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity that are entered during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.*

*''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity that are entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.*

*''(v) APPAREL ARTICLES ASSEMBLED FROM FABRICS OR YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarn as eligible for preferential treatment under clause (i)(IV) if—*

*''(I) the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner;*

*''(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;*

*''(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such actions, and the advice obtained under subclause (II);*

*''(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and*

*''(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).*

*''(vi) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.*

*''(vii) SPECIAL RULES.—*

*''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.*

*''(bb) In the case of an article described in clause (i)(I) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.*

*''(II) CERTAIN INTERLININGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of*

*such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.*

*''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.*

*''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.*

*''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains yarns not wholly formed in the United States or in 1 or more ATPEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.*

*''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.*

*''(V) CLARIFICATION OF CERTAIN KNIT APPAREL ARTICLES.—Notwithstanding any other provision of law, an article otherwise eligible for preferential treatment under clause (iii)(I) of this subparagraph, shall not be ineligible for such treatment because the article, or a component thereof, contains fabric formed in the United States from yarns wholly formed in the United States.*

*''(viii) TEXTILE LUGGAGE.—Textile luggage—*

*''(I) assembled in an ATPEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or*

*''(II) assembled from fabric cut in an ATPEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.*

*''(B) PREFERENTIAL TREATMENT.—Except as provided in subparagraph (E), during the transition period, the articles to which subparagraph (A) applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.*

*''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A)(vi), the President shall consult with representatives of the ATPEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.*

*''(D) PENALTIES FOR TRANSSHIPMENTS.—*

*''(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel articles from an ATPEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.*

*''(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.*

*''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (B) has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (B).*

*''(E) BILATERAL EMERGENCY ACTIONS.—*

*''(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPEA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.*

*''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—*

*''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;*

*''(II) the term 'transition period' in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and*

*''(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.*

*''(3) TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—*

*''(A) EQUIVALENT TARIFF TREATMENT.—*

*''(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B), (D) through (F), or (H) of paragraph (1) that is an ATPEA originating good shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.*

*''(ii) EXCEPTION.—Clause (i) does not apply to any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS.*

*''(B) RELATIONSHIP TO SUBSECTION (C) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (c) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.*

*''(C) SPECIAL RULE FOR SUGARS, SYRUPS, AND SUGAR CONTAINING PRODUCTS.—Duty-free treatment under this Act shall not be extended to sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.*

*''(D) SPECIAL RULE FOR CERTAIN TUNA PRODUCTS.—*

*''(i) IN GENERAL.—The President may proclaim duty-free treatment under this Act for tuna that is harvested by United States vessels or ATPEA beneficiary country vessels, and is prepared or preserved in any manner, in airtight containers in an ATPEA beneficiary country. Such duty-free treatment may be proclaimed in any calendar year for a quantity of such tuna that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year. As used in the preceding sentence, the term 'tuna pack' means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.*

*''(ii) UNITED STATES VESSEL.—For purposes of this subparagraph, a 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.*

*''(iii) ATPEA VESSEL.—For purposes of this subparagraph, an 'ATPEA vessel' is a vessel—*

*''(I) which is registered or recorded in an ATPEA beneficiary country;*

*''(II) which sails under the flag of an ATPEA beneficiary country;*

*''(III) which is at least 75 percent owned by nationals of an ATPEA beneficiary country or by a company having its principal place of business in an ATPEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPEA beneficiary country or by public bodies or nationals of an ATPEA beneficiary country;*

*''(IV) of which the master and officers are nationals of an ATPEA beneficiary country; and*

*''(V) of which at least 75 percent of the crew are nationals of an ATPEA beneficiary country.*

*''(4) CUSTOMS PROCEDURES.—*

*''(A) IN GENERAL.—*

*''(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.*

*''(ii) DETERMINATION.—*

*''(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (2) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—*

*''(aa) has implemented and follows; or*

*''(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.*

*''(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPEA beneficiary country—*

*''(aa) from which the article is exported; or*

*''(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (2) or (3).*

*''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.*

''(C) REPORT BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPEA beneficiary country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to Congress, not later than October 1, 2002, a report on the study conducted under this subparagraph.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) ATPEA BENEFICIARY COUNTRY.—The term 'ATPEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

''(i) Whether the beneficiary country has demonstrated a commitment to—

''(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

''(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

''(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

''(iii) The extent to which the country provides internationally recognized worker rights, including—

''(I) the right of association;

''(II) the right to organize and bargain collectively;

''(III) a prohibition on the use of any form of forced or compulsory labor;

''(IV) a minimum age for the employment of children; and

''(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;

''(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

''(v) The extent to which the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

''(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

''(vii) The extent to which the country—

''(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

''(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

''(C) ATPEA ORIGINATING GOOD.—

''(i) IN GENERAL.—The term 'ATPEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law.

''(ii) APPLICATION OF CHAPTER 4.—In applying chapter 4 of the NAFTA with respect to an ATPEA beneficiary country for purposes of this subsection—

''(I) no country other than the United States and an ATPEA beneficiary country may be treated as being a party to the NAFTA;

''(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and an ATPEA beneficiary country;

''(III) any reference to a party shall be deemed to refer to an ATPEA beneficiary country or the United States; and

''(IV) any reference to parties shall be deemed to refer to any combination of ATPEA beneficiary countries or to the United States and one or more ATPEA beneficiary countries (or any combination thereof).

''(D) TRANSITION PERIOD.—The term 'transition period' means, with respect to an ATPEA beneficiary country, the period that begins on the date of enactment, and ends on the earlier of—

''(i) February 28, 2006; or

''(ii) the date on which the FTAA or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103–182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the ATPEA beneficiary country.

''(E) ATPEA.—The term 'ATPEA' means the Andean Trade Preference Expansion Act.

''(F) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e) of the Andean Trade Preference Act (19 U.S.C. 3202(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(1)''; and

(C) by adding at the end the following:

''(B) The President may, after the requirements of paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as an ATPEA beneficiary country; or

''(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b) (2) and (3) to any article of any country, if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) If preferential treatment under section 204(b) (2) and (3) is withdrawn, suspended, or limited with respect to an ATPEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 204(b)(5)(C) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.''.

(c) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than December 31, 2002, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this title, including—

''(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(5)(B).

''(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(5)(B).''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting ''(or other preferential treatment)'' after ''treatment''.

(B) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or otherwise provided for)'' after ''eligibility''.

(C) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or preferential treatment)'' after ''duty-free treatment''.

(2) DEFINITIONS.—Section 203(a) of the Andean Trade Preference Act (19 U.S.C. 3202(a)) is amended by adding at the end the following new paragraphs:

''(4) The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(5) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).''.

**SEC. 103. TERMINATION.**

Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF PREFERENTIAL TREATMENT.—No preferential duty treatment extended to beneficiary countries under this Act shall remain in effect after February 28, 2006.''.

## TITLE II—MISCELLANEOUS TRADE PROVISIONS

**SEC. 201. WOOL PROVISIONS.**

(a) SHORT TITLE.—This section may be cited as the ''Wool Manufacturer Payment Clarification and Technical Corrections Act''.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting ''average'' before ''diameters''.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking ''In each of the calendar years'' and inserting ''For each of the calendar years''; and

(ii) by striking ''for a refund of duties'' and all that follows through the end of the subsection and inserting ''for a payment equal to an amount determined pursuant to subsection (d)(1).''.

(B) Subsection (b) is amended to read as follows:

''(b) WOOL YARN.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).''.

(C) Subsection (c) is amended to read as follows:

''(c) WOOL FIBER AND WOOL TOP.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).''.

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

''(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

''(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

''(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

''(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturer's to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

''(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

''(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

''(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

''(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

''(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

''(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

''(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

''(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 9902.51.14 of such Schedule purchased in calendar year 1999.

''(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

''(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

''(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first installment on or before December 31, 2001, the second installment on or before April 15, 2002, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before April 15, 2002, and the second installment on or before April 15, 2003.

''(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

''(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

''(e) AFFIDAVITS BY MANUFACTURERS.—

''(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

''(2) TIMING.—An affidavit under paragraph (1) shall be valid—

''(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

''(B) in the case of a claim for a payment for calendar year 2001 or 2002, only if the affidavit is postmarked no later than March 1, 2002, or March 1, 2003, respectively.

''(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

''(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

''(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

''(2) imported wool yarn, of the kind described in heading 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

''(3) imported wool fiber or wool top, of the kind described in heading 9902.51.14 of such

*Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.''.*

*(2) FUNDING.—There is authorized to be appropriated and is appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, $36,251,000 to carry out the amendments made by paragraph (1).*

***SEC. 202. CEILING FANS.***

*(a) IN GENERAL.—Notwithstanding any other provision of law, ceiling fans classified under subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States imported from Thailand shall enter duty-free and without any quantitative limitations, if duty-free treatment under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) would have applied to such entry had the competitive need limitation been waived under section 503(d) of such Act.*

*(b) APPLICABILITY.—The provisions of this section shall apply to ceiling fans described in subsection (a) that are entered, or withdrawn from warehouse for consumption—*

*(1) on or after the date that is 15 days after the date of enactment of this Act; and*

*(2) before July 30, 2002.*

***SEC. 203. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.***

*(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—*

*(1) by striking ''4.9%'' and inserting ''Free''; and*

*(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.*

*(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.*

AMENDMENT NO. 3386

Mr. DASCHLE. Madam President, with the authority of the Finance Committee, I withdraw the committee amendment and send an amendment to the desk.

The PRESIDING OFFICER. The committee amendment is withdrawn.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. DASCHLE] proposes an amendment numbered 3386.

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

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

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

Mr. DASCHLE. Madam President, we have just sent to the desk legislation that includes three components: First, the trade promotion authority; second, trade adjustment assistance; and third, the Andean Trade Preference Expansion Act.

The trade adjustment assistance measures are particularly crucial because they will provide help to dislocated workers. This package includes job search assistance, unemployment insurance, and, for the first time, much needed health benefits. We are now ready to begin the debate on this important trade legislation and, as we have noted for some time, this bill is open to amendment and we encourage Senators to come forth with their amendments soon.

I look forward to a full and spirited debate. I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. LOTT. Madam President, sometime when the Senate is doing its best work, it is not always visible. Throughout the day, we have been having discussions that involved the managers of this legislation. They have been talking to members of the Finance Committee and communicating with the administration. It is very important that we have the straight legislation. There are a lot of different views on both sides of the aisle about exactly how this should proceed, or whether it is a good idea.

There are those who say, yes, we would like to have trade promotion authority, but there must be trade adjustment assistance to go with it for those who might be displaced from jobs so they can get assistance with training and get into the next job.

It is important we move forward. Everybody's options are still preserved. Senator DASCHLE and I have indicated to each other that there is not going to be any precipitous move. We want to take a look at the actual language. Sometimes it is hard to negotiate a moving target or when there is not a clear understanding of what is involved.

We now have a document. We are going to take a look at it tonight. I hope we can begin to move forward, perhaps even with amendments tomorrow. We will go over the language, and we will be talking further with the managers of the legislation and make sure the administration has a chance to review it.

I look forward to a full debate and amendment process. I do wish to add—and I know Senator DASCHLE is thinking it right now—this should not take place over weeks, as we experienced with the energy bill. We have some important issues, some tough issues, but once we see if we can come to agreement on two or three of these issues or get votes on a couple of these issues, we should be able to move it forward in an expeditious way.

It did not work on the energy bill, but I do think this week, and hopefully by the end of next week, we will have an agreement on which we can vote. It is worth the effort, and I am prepared to put a lot of time into it.

I thank Senator DASCHLE for agreeing to lay this legislation down so we can take a look at it. We will continue working together tomorrow.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Madam President, first, I compliment and thank the distinguished Republican leader for the cooperative effort he has put forth to get to this point. We have talked on many occasions over the last several days, and the spirit with which he has discussed the importance of this legislation, as well as the importance of a good debate, is exactly the one I hold as well.

I encourage Senators to offer amendments, but let me also say, as the Senator alluded, we will be able to determine whether this is good faith or not, whether we are just delaying for the sake of delaying; that will not be something we can tolerate. But we certainly encourage a good and vigorous debate with ample opportunity to offer amendments. There is a difference between simply delaying for delaying sake and amendments for the sake of changing, improving, or in some way altering the legislation as it has been introduced.

Again, we will work with all of our colleagues to accommodate that and look forward to the debate beginning tonight and again tomorrow morning. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 3387 TO AMENDMENT NO. 3386

Mr. DORGAN. Madam President, I rise to offer an amendment. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. CRAIG, proposes an amendment numbered 3387 to amendment No. 3386.

Mr. DORGAN. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the appropriate place, insert the following:

**SEC. ____. SECRET TRIBUNALS.**

(a) FINDINGS.—Congress makes the following findings:

(1) Chapter Eleven of the North American Free Trade Agreement (''NAFTA'') allows foreign investors to file claims against signatory countries that directly or indirectly nationalize or expropriate an investment, or take measures ''tantamount to nationalization or expropriation'' of such an investment.

(2) Foreign investors have filed several claims against the United States, arguing that regulatory activity has been ''tantamount to nationalization or expropriation''. Most notably, a Canadian chemical company claimed $970,000,000 in damages allegedly resulting from a California State regulation banning the use of a gasoline additive produced by that company.

(3) A claim under Chapter Eleven of the NAFTA is adjudicated by a three-member panel, whose deliberations are largely secret.

(4) While it may be necessary to protect the confidentiality of business sensitive information, the general lack of transparency of these proceedings has been excessive.

(b) PURPOSE.—The purpose of this amendment is to ensure that the proceedings of the NAFTA investor protection tribunals are as transparent as possible, consistent with the need to protect the confidentiality of business sensitive information.

(c) CHAPTER 11 OF NAFTA.—The President shall negotiate with Canada and Mexico an amendment to Chapter Eleven of the NAFTA to ensure the fullest transparency possible with respect to the dispute settlement mechanism in that Chapter, consistent with the need to protect information that is classified or confidential, by—

(1) ensuring that all requests for dispute settlement under Chapter Eleven are promptly made public;

(2) ensuring that with respect to Chapter Eleven—

(A) all proceedings, submissions, findings, and decisions are promptly made public; and

(B) all hearings are open to the public; and

(3) establishing a mechanism under that Chapter for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(d) CERTIFICATION REQUIREMENTS.—Within one year of the enactment of this Act, the U.S. Trade Representative shall certify to Congress that the President has fulfilled the requirements set forth in subsection (c).

Mr. DORGAN. Madam President, I understand the rather lengthy managers' amendment has just been offered. I do not know how many pages it is, but obviously we will have to study it. It is a substantial amendment.

I offer my amendment in the first degree to the managers' amendment that was just offered. I will describe it briefly. I understand there are no further votes today, and perhaps I will discuss it briefly and then discuss it some in the morning. I hope perhaps tomorrow we may have a vote on it. I offer this amendment on behalf of myself and Senator CRAIG from Idaho.

The amendment is relatively simple. This amendment deals with Chapter 11 of the North American Free Trade Agreement. Under Chapter 11 of NAFTA, secret multinational tribunals consider claims by private investors against member countries, including claims by foreign investors against the U.S. Government. This amendment would end the undemocratic and unfair secrecy in these tribunals.

My amendment directs the President to negotiate with Canada and Mexico an amendment to NAFTA that would require transparency in these tribunals. The U.S. Trade Representative under this amendment is to certify to Congress that this has been done within 12 months of the enactment.

Even the supporters of fast track have recognized that secrecy is not appropriate, and yet we have these tribunals that are secret. No one is allowed to understand their work; no one can be a part of their discussions; no one understands the deliberations. The door is locked. Three members are appointed to a tribunal. They meet in secret, make judgments in secret, make decisions in secret, and then we are told the result. That is not the way for this country to proceed with respect to dispute resolutions to trade agreements.

U.S. Trade Representative Zoellick has recognized this secrecy is a problem, and he met with his counterparts from Mexico and Canada on this issue. In fact, they agreed there needed to be more openness, and they announced that July 31 of last year. They said that these tribunals will operate as openly as possible.

But just last month, a NAFTA tribunal refused to open their proceedings once again and rejected the guidelines by Ambassador Zoellick and his counterparts.

This amendment will fix a problem that everyone, including the administration, acknowledges. It will require transparency. It will require an end to the secrecy, an opening up of the process so the American people can understand how this democratic process must work.

We cannot and should not be a party to secret tribunals. We have been, but we should not be, and my amendment will remedy that.

I understand that in the negotiating objectives described in the managers' amendment, there is language that would address the secrecy of the tribunals going forward for future agreements. I do not know that for certain. I am told that is part of the managers' amendment.

If it is the case, it seems logical to me that we would want to extend that to other agreements with which we are now engaged, including the North American Free Trade Agreement.

I might mention again—I do not have all the details—but we have a situation in California where California understood that an additive to gasoline called MTBE was showing up in drinking water and ground water. They discovered that is dangerous to people, and California banned MTBE from being added to gasoline in California. A couple of other States have taken the same action.

A Canadian company that manufactures MTBE has filed an action under NAFTA and is asking for hundreds of millions of dollars against California and our country because we are taking action to protect our citizens. They say they have been injured by this and have a right under NAFTA to make the claim; then, a tribunal is developed and begins to meet and it is totally secret. Its proceedings are totally, completely secret. The American public is told: You are not involved; you cannot see, you cannot be a part of this; it is none of your business.

Talk about a bizarre set of circumstances for a democracy to enter into trade agreements by which we allow someone from another country to challenge a State government in our country, just because it is trying to protect their citizens from poisons in the drinking water, chemicals that are harmful to human health. We end up being sued under a trade agreement for damages totaling hundreds of millions of dollars, just for protecting our people; and we are told that this suit will be determined by a tribunal that will meet in secret. What is that about? Does anybody really think this makes any sense? Can anybody really support this? We will have a vote on this and see whether people will.

This amendment, which is bipartisan—Senator CRAIG and I are offering it—is a simple one. It says we are a party to trade agreements—we understand that—but we cannot and should not be a party to a trade agreement by which investor dispute tribunals will be conducted in secret. They have been in the past, they should not ever be again, and our amendment says, stop it, this country cannot be a part of that.

I will speak at greater length about the amendment and describe in some more detail the MTBE saga, which I think is symbolic of the egregious actions of tribunals meeting in secrecy. I will not do that this evening. I will do that in the morning.

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

Mr. DORGAN. I will be happy to yield.

Mr. REID. I appreciate the Senator offering this amendment at this time. Based on what the majority leader just said, that he wanted, in effect, quality amendments, I think he has one here. This is the type of amendment people should look forward to, I hope.

Of what I know about the Senator's amendment—and I have spoken with him off the floor—it is going to be a tough amendment to vote against. How can anybody be in favor of secret meetings when they deal with some of the most important issues in this country and, in fact, our relations with other countries? I do not think we should be doing that in secret. That is what the Senator is saying; is that not true?

Mr. DORGAN. That is the case. This is an amendment I am offering, along with my colleague Senator CRAIG from Idaho. It is bipartisan. And whether you are in favor of fast track or opposed to it, you should be opposed to tribunals meeting in secret.

I think we will find agreement between both supporters and opponents of fast track that we ought not be a party to tribunals that are secret, that are shielded from the view of the American people. I am going to use the MTBE case tomorrow morning to graphically demonstrate how absurd it is that we could be sued under a trade law for taking action, or we can have action taken against us for our deciding we want to protect the health of the American people and that the dispute will be resolved behind a cloak of secrecy. That is not what this country should be involved in.

It is at this point because that is the way NAFTA works, but we can change it. This Congress can change it, and I hope tomorrow by voting for this amendment this Congress will change it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Madam President, I will speak on the bill, but I first want to make a comment not for or against the amendment of the Senator from North Dakota but to put it in context. The reason I cannot make a comment for or against the amendment of the Senator from North Dakota is at this point I have not read it or studied it. I do think he has brought up an issue of transparency, and it deals with NAFTA. On all agreements, particularly WTO agreements, there has been

a big concern about the process not being transparent enough.

Senator BAUCUS and I, in the Finance Committee, have spoken about the necessity for doing this in several different venues. We have spoken with people from the European Community about it. We believe the process of the WTO, for instance, should be very much more transparent than it has been in the past. So the issue of transparency is one that does fall on acceptable ears in a very general sense, not necessarily related to the amendment of the Senator from North Dakota but in a very general sense with most of us in the Congress of the United States. Where we have run into most of the opposition is from the European Community.

We have also had a lot of the developing nations of the world that are members of the World Trade Organization be highly in favor of more transparency.

The issue of transparency was the basis for a lot of the protests in Seattle, and since then there has been a real determined look at the process. A lot of us have come to the conclusion that whatever we can do to promote more transparency we should.

Speaking now on the bill and where we are at this point, particularly now that we do have a substitute amendment before us laid down by the Senate majority leader, I am encouraged on the one hand, dismayed on the other, by the action taken today in the laying down of this amendment.

I am encouraged because, after months of delays, we are moving forward on trade promotion authority. The House passed TPA last year. Unfortunately, TPA has languished much too long in the Senate. So I definitely am glad we are moving forward. In a minute I will talk about being dismayed.

In regard to moving forward, the fact is, while we were sitting on the sidelines for the last 5 or 6 years that our President has not had trade promotion authority, the United States is a party to only 3 agreements out of some 130 free trade agreements negotiated worldwide. That means other countries get better access to foreign markets than we do. That is unfair.

Let me give some examples. Today, the average U.S. tariff is 4.8 percent. In contrast, Brazil's tariff averages 14.6 percent; Thailand, 45.6 percent. That is much too high. We need to correct the imbalance, and the best way to do that is by providing our President with the tools he needs to tear down these barriers to our exports. The most important tool we have to accomplish that is through trade promotion authority.

Let me go through those figures once more to emphasize the point. The United States has an average tariff of 4.8 percent. We have Brazil much higher at 14.6 percent and Thailand at 45.6 percent. So if anybody in this body ever wonders whether it is a benefit to the United States to be involved in regimes of negotiating down barriers to trade, and particularly tariffs, they ought to understand that for the United States, at 4.8 percent compared to 14.6 percent, and 45 percent for Thailand, they must be brought down, even if they are not brought down to where we are. That is a win-win situation for the American worker, as jobs that are created in international trade are good jobs that pay 15 percent above the national average. So the President then needs trade promotion authority to represent the interests of American workers in international trade negotiations.

He has not been there for 127 of the agreements reached in the last few years. He has not been there because Congress has not given him the authority to be there. So I am committed to helping the President get these tools.

Without trade agreements, the United States will lose its role as world leader in setting global trade policies and standards. That means other nations, in no way committed to U.S. interests, will set the world's future trading rules. They will do it, and it is going to affect us. I can guarantee those nations are not looking out for the best interests of our workers.

TPA will help us and our President get back into the game where we were practically full time from 1947 to 1994. It has only been since 1994 that the President has not had this authority. This is why I am glad we have this bill before us.

Now I wish to state why I am dismayed about the process thus far, and that is the insistence on linking trade promotion authority, which has strong bipartisan support as per the 18-to-3 vote out of the Senate Finance Committee, but they want to link it to the controversial expansion of trade adjustment assistance. I am dismayed not because there is a linkage between trade promotion authority and trade adjustment assistance because these two bills have often been linked in the past; I am dismayed that trade adjustment assistance is being brought up in a partisan way.

Ever since President Kennedy first designed the Trade Adjustment Assistance Program in the early 1960s, the program has garnered strong bipartisan support. That is the way it has been. That is the way it should be this year. Unfortunately, the way in which this bill is being brought forward falls far short of that bipartisanship.

As the ranking member of the Senate Finance Committee, which is the committee responsible for drafting both trade promotion authority legislation and trade adjustment assistance, perhaps I can shed some light on how we got to where we are today.

First, Chairman Max Baucus and I worked for months crafting a bipartisan trade promotion bill, and we did it in a very good way or it would not have gotten a 18-to-3 vote. The end result was supported by the White House, by Majority Leader TOM DASCHLE because he is a member of the committee, by Republican Minority Leader TRENT LOTT because he is also a member of the committee, and it sailed through the Finance Committee.

In contrast to trade promotion authority, we have this other bill, S. 1209, the trade adjustment assistance bill, that I talked about. It was not a product of the committee process or bipartisan compromise. In fact, days before the bill was brought before the Finance Committee, Democrats inserted a provision and legislation requiring large Government subsidies for company-based health care coverage for the first time in the history of trade adjustment assistance. This new and unprecedented provision shattered what would otherwise have been strong bipartisan support for trade adjustment assistance.

At the time, the chairman of the Finance Committee assured Members that the health care provision was simply a place hold that would be replaced by whatever bipartisan approach results from the debate over providing health care to uninsured workers which was then taking place in the economic stimulus package.

As we all know now, a bipartisan consensus could not be achieved and ultimately the stimulus bill passed Congress without a health care provision. Now the health care fight has moved from stimulus to trade promotion authority. Still, no bipartisan consensus. I hope by tomorrow morning I can say that there is such a bipartisan consensus. It is a shame that to this point there is not. We should be able to do better.

The trade adjustment assistance bill currently before the Senate also risks jeopardizing strong public support that trade adjustment assistance has always had because it expands the program too far, opening the program to possible abuse. In my view, we need to be sure that the scope of the program—and I am talking beyond the health provisions suggested—is limited to those people who are truly impacted by negative aspects of international trade, we also need to be sure the program is fiscally prudent, and we need to be sure the administration can actually administer the program we might outline in the bill. If the administration cannot so administer, we will only have more worker frustration as they try to use the Trade Adjustment Assistance Program.

American workers are too important to be reckless. We need to maintain confidence in the Trade Adjustment Assistance Program. We need to do that through this legislation, getting this legislation just exactly right. This may take a little longer, but it is the right thing to do. We can provide expanded and improved trade adjustment assistance to America's workers with strong bipartisan support. We can also devise ways to provide temporary health insurance assistance for trade adjustment assistance workers, even

though doing so would constitute a fundamental unfairness to the 39 million other Americans living without health insurance.

So all my colleagues can hear me, I know we are going to end up with health insurance provisions in the Trade Adjustment Assistance Act. As long as that doesn't become a pattern for what this Congress has not responsibly done up to this point—and maybe we all share in that problem; we have not tackled the problem of all the millions—it is probably 39 to 40 million Americans—who do not have health insurance—it is my view we should tackle the health provision vis-a-vis trade adjustment assistance workers with a pool of uninsured workers in America and not do it piecemeal. I am not going to prevail in that point of view. Or if I prevail in that point of view, we will not have trade promotion authority. So I am giving on it.

But I think it is wrong because it detracts, that we don't think 40 million uninsured Americans is a problem. We have to deal with that. The President of the United States recognizes that. He has $81 billion in his budget for programs for the 42 million uninsured Americans.

How we achieve these goals is a debate I and my Republican colleagues are ready and willing to undertake. We are starting now with the Senate majority leader laying down this trade adjustment assistance bill and other items related to trade promotion authority.

The PRESIDING OFFICER (Ms. CANTWELL). The Senator from South Carolina.

Mr. HOLLINGS. Madam President, with respect to the amendment of the distinguished Senator from North Dakota, I have an important article I will include in the RECORD. However, I respond to the distinguished Senator from Iowa, pointing out the trade adjustment assistance and the emphasis on it. At least we now are admitting that in this proceeding we are not going to win jobs, we are going to lose jobs. In every one of these trade debates, that is the first thing they say: This is so fine, it will create jobs—NAFTA was to create 200,000 jobs; we have lost some 670,000 textile jobs alone since that time.

The appeal now for this fast track and this trade agreement is: We will put you on welfare reform. We will let you have health costs. We will have certain benefits.

I am looking for jobs for my people. I am not looking for welfare reform. At least they acknowledge that. That is the big debate going on for the past week. We were ready this morning, and they were not. After we had lost that motion to proceed, they had won, so we were ready to proceed. However, they had not gotten together the welfare reform clause for lost jobs.

Having observed that, Madam President, let me refer to Senator DORGAN's amendment with respect to an article that appeared in Business Week, dated April 1, on page 76. It is entitled ''The Highest Court You've Never Heard Of.'' I ask unanimous consent this article be printed in the RECORD.

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

[From Business Week, Apr. 1, 2002]

THE HIGHEST COURT YOU'VE NEVER HEARD OF

(By Paul Magnussun)

When a Mississippi jury slapped a $500 million judgment on Loewen Group, a Canadian funeral-home chain, in 1995 for breaching a contract with a hometown rival, the company quickly settled the case for $129 million but then decided to appeal. But instead of going to a U.S. court, the Canadians took their case to an obscure three-judge panel that stands distinctly apart from the U.S. legal system. And that panel's decision cannot be appealed.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. the U.S. is just one of two dozen wending their way through a little-known and highly secretive process. The panels, using arbitration procedures established by the World Bank, were supposed to ensure that governments in the U.S., Mexico, and Canada would pay compensation to any foreign investor whose property they might seize. U.S. business groups originally demanded the investor-protection mechanism, noting that the Mexican government had a history of nationalizing its oil, electricity, and banking industries, including many U.S. assets.

But even some of NAFTA's strongest supporters say that clever and creative lawyers in all three countries and rapidly expanding the anti-expropriation clause in unanticipated ways. ''The question in a lot of these pending cases is, will the panels produce a pattern of decisions that the negotiators never envisioned?'' says Charles E. Roh Jr., deputy chief U.S. negotiator for NAFTA, now a partner at Weil, Gotshal & Manges LLC. Some of the early indications, he says, ''are troubling.''

In one case, a NAFTA panel issued an interpretation of the Mexican Constitution, an authority the NAFTA negotiators hadn't intended to give the panel. In the dispute, a California waste disposal company, Metalclad Corp., was awarded $16.7 million by a NAFTA tribunal after the governor of the state of San Luis Potosi and a town council refused the company a permit to open a toxic waste site. The company had asked for $90 million in damages, insisting that the state and local governments had overstepped their authority.

The majority of the cases are yet to be decided, but the NAFTA panels are controversial nonetheless. For one thing, they are already pitting environmentalists and federal, state, and local government regulators in all three countries against multinationals. The basic disagreement: Business groups want to include NAFTA's strongest investor-protection provisions in all future free-trade agreements, while many environmentalists would like to scrap the entire procedure as an impediment to government regulatory action. The cases are also complicating efforts to negotiate free-trade agreements with Chile and the hemispheric, 34-nation Free Trade Area of the Americas.

Washington's problem: While such panels may favor U.S. businesses abroad, foreign plaintiffs would enjoy the same such privileges in the U.S. And that could end up giving them protections against regulations far beyond those domestic companies enjoy in their own courts. What's more, states and municipalities have also warned that their ability to govern is being compromised by ''a new set of foreign investor rights.''

In some cases, the NAFTA suits seek damages for government decisions that are clearly legal but can be questioned under vague notions of international law. For example, a Canadian chemical company, Methanex Corp., bypassed U.S. courts to challenge California's ban on a health-threatening gasoline additive, MTBE, that has been polluting municipal wells and reservoirs. In its $970 million claim, the Canadian company said California Governor Gray Davis had been influenced in his decision by a $150,000 campaign contribution from U.S.-based Archer Daniels Midland Co., the maker of a rival gasoline additive. The campaign contribution was legal, but Methanex' lawyers argued that the Davis decision was ''palpably unfair and inequitable'' because of ADM's influence. Such an argument wouldn't likely work in a U.S. court.

No laws can be overturned by the panel, but the cost of defending against a NAFTA lawsuit may run so high that it could still deter agencies from imposing strict regulations on foreign companies, critics charge. They point to a decision by Canada not to restrict cigarette marketing after Ottawa was threatened with a NAFTA case by U.S. tobacco companies. In another potentially intimidating move, United Parcel Service Inc. is seeking $160 million in damages from Canada, arguing that the state-owned Canadian postal system, Canada Post, maintains a monopoly on first-class mail and delivers parcels with private Canadian partners.

But right now, the Loewen case is the one in the spotlight. The Mississippi trial was so theatrical that Warner Bros. Inc. and film director Ron Howard have acquired the movie rights, according to attorneys in the case. Canadian funeral chain founder Ray Loewen was vilified as a foreigner, a ''gouger of grieving families,'' an owner of a large yacht, a racist, a customer of foreign banks, and greedy besides, according to the transcript. Yet the State Supreme Court refused to waive the appeal bond, which had been set at $625 million—to be posted in 10 days. (The largest previous verdict in the state had been $18 million.) Loewen filed for bankruptcy protection in 1999 but is hopeful that the imminent NAFTA ruling will revive the company.

Although many of the current cases raise questions, business groups insist that NAFTA-like panels are needed in all trade deals because so many developing nations have poor judicial systems. But they allow that the process may still need some tweaking. ''Of course, if I look at the filed cases so far, I could write a pretty scary story,'' says Scott Miller, a Washington lobbyist for Procter & Gamble Co. And Eric Biehl, a former top Commerce Dept. official, who supports NAFTA, wonders, ''how does some mechanism on a trade agreement that no one ever thought much about suddenly get used to open up a whole new appellate process around the U.S. judicial system?'' That's a question a lot more people may soon be asking.

Mr. HOLLINGS. It reads: Do NAFTA judges have too much authority?

Let me read:

When a Mississippi jury slapped a $500 million judgment on Loewen Group, a Canadian funeral-home chain, in 1995 for breaching a contract with a hometown rival, the company quickly settled a case for $129 million but then decided to appeal. But instead of going to a U.S. court, the Canadians took their case to an obscure three-judge panel that stands distinctly apart from the U.S. legal system. And that panel's decision cannot be appealed.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. U.S. is just one of two dozen wending their way through a little-known and highly secretive process.

Let me read that sentence one more time. That is the reason we opposed fast track. We will have a time agreement, 2 hours a side, or 4 hours, or debate it this afternoon. You never get the obscure addendum and other things agreed to. They don't tell you about them.

Thanks to some fine print in the 1994 North American Free Trade Agreement, the case of Loewen Group vs. U.S. is just one of two dozen winding their way through a little-known highly secretive process. The panels, using arbitration procedures established by the World Bank, were supposed to ensure the governments in the U.S., Mexico, and Canada would pay compensation to any foreign investor whose property they might seize. U.S. business groups originally demanded the investor-protection mechanism, noting that the Mexican government had a history of nationalizing its oil, electricity, and banking industries, including many U.S. assets.

But even some of NAFTA's strongest supporters say the clever and creative lawyers in all 3 countries are rapidly expanding the anti-expropriation clause in unanticipated ways. ''The question in a lot of these pending cases is, will the panels produce a pattern of decisions that the negotiators never envisioned?'' says Charles E. Roh Jr, deputy chief U.S. negotiator for NAFTA, now a partner at Weil, Gotshal & Manges, LLC. Some of the early indications, he says, ''are troubling.''

But there are some examples here. There is not only the particular funeral home case, but:

UPS claims that the Canadian post, the state-owned postal system, uses its monopoly on letter mail to gain unfair advantages in parcel deliveries.

In the matter of the Canadian manufacturer, Methanex, versus the United States:

The Canadian manufacturer of a gasoline additive sued after California found the health-threatening chemical had contaminated water, and banned its use.

So after the California authorities have the hearings and everything else, they find out it is contaminative. As a result, they ban the use. No, you take that up to the secret panel of NAFTA judges, who meet in secret, decide in secret, and if you can get a fix—like you can get the fix of the vote around here—what happens is the California proceeding, totally in the open, is overturned. The legal process is totally frustrated.

I will read one more example. Those who are interested can follow the particular article, Metalclad v. Mexico:

U.S. company sued after it obtains permits from the Mexican federal government for a waste disposal site. Then localities denied a permit to operate.

They said that was taking away their particular business. You can go on and on, but it is a two-way street. Lawyers on both sides of the border are using this particular secretive measure.

Although many of the current cases raise questions, business groups insist that NAFTA-like panels are needed in all trade deals because so many developing nations have poor judicial systems. But they allow that the process may still need some tweaking. ''Of course, if I look at the filed cases so far, I could write a pretty scary story,'' says Scott Miller, a Washington lobbyist for Procter & Gamble Co. and Eric Biehl, a former top Commerce Dept. official, wonders ''how does some mechanism on a trade agreement that no one ever thought much about suddenly get used to open up a whole new appellate process around the U.S. judicial system?'' That's a question a lot more people may soon be asking.

The distinguished Senator from North Dakota asked the question. That is what this amendment does. It goes to the heart of that secretive process, trying to get transparency. I think there should be a greater enforcement provision in this particular amendment. Maybe we can have the amendment itself amended.

Be that as it may, this ought to receive 100 bipartisan votes in the Senate against the secret process of the NAFTA panels that no one ever heard of. ''The Highest Court You've Never Heard Of,'' says Business Week.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

(The remarks of Mr. SPECTER pertaining to the introduction of S. 2439 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BIDEN. Madam President, I ask unanimous consent to be able to proceed as if in morning business for up to 15 minutes.

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

## THE JENIN INVESTIGATION

Mr. BIDEN. Madam President, for the past few weeks we have been hearing sensationalist claims of a massacre in the Jenin refugee camp. In recent days, hundreds of reporters and international relief workers have descended on the camp, and not one has verified these claims.

In fact, the Washington Times today quotes the senior official in Yasser Arafat's Fatah movement in Jenin as saying that the death toll stands at fifty six. Other reports place the number around fifty one.

Even one death is one too many, and there is still considerable excavation work to do in the camp. But it seems apparent that there was no massacre in Jenin.

Let me say that again. It seems apparent that there was no massacre in Jenin.

There are not 500 civilian dead, as the Palestinians initially claimed. What happened in Jenin was an intense battle fought at close quarters in which 23 Israeli soldiers also lost their lives in Jenin. And the leader of Fatah said today, trying to make the case that they ''won'' the battle, that ''although we lost 56, they lost 23.''

The relatively high number of Israeli casualties is in itself an indicator of what went on in the camp. Had the Israelis chosen, they could have easily sat back and pummeled the camp from afar, and starved the terrorists. Instead, they chose to do things the hard way. They went house to house to house, from booby-trapped house to booby-trapped house to booby-trapped house. In doing so to avoid civilian casualties, they inflicted casualties upon themselves. That is why they went house to house—not to inflict civilian casualties.

Were there civilian casualties? Almost certainly there were. But there is a world of difference between the deliberate targeting of civilians and the unintentional and inevitable casualties that were bound to occur in a place such as Jenin where terrorists deliberately hid themselves among civilians.

Remember we got a dose of that ourselves during the gulf war. As you recall, Saddam Hussein hid himself and others in the midst of civilian populations in civilian centers. That is the picture I believe will emerge as the facts are examined in the cold light of day—that there was no massacre, and that, although there were civilians killed, the number was relatively small, more in line with the number of Israelis killed—that is, proportionately. And I think the world should understand that.

There has been considerable discussion in recent days about a United Nations' factfinding panel assembled by Secretary General Kofi Annan. As of a couple of hours ago, the U.N. officially decided not to send the factfinding mission. But the impression we have heard in the world is that the reason the factfinding mission was not sent is because of Israeli intransigence.

U.N. leadership, I believe under Kofi Annan, had the best intentions. But Israel has voiced what I believe to be legitimate concerns about the composition, the procedures, and terms of reference this team was supposed to operate under. Reports indicate that the team is now disbanding.

Unfortunately, in my view, the United Nations should have met the legitimate concerns and proceeded with the mission. It is hard to blame Israel for having doubts about the objectivity of a factfinding team.

Israel has also voiced concerns over the lack of adequate representation on

the U.N. team of counterterrorism and military experts. It argues, in my view, with justification that the events in Jenin must be seen in their proper context.

Israel did not invade Jenin on a whim; it did so to destroy the terrorist infrastructure, and only after the Palestinian Authority—this is an important point—only after the Palestinian Authority, whom the Israelis and the rest of the world equipped with weapons to keep peace and order—only after the Palestinian Authority refused to carry out its obligations to destroy this terrorist infrastructure.

According to the Israeli Government, 23 suicide bombers came from Jenin. These 23 were responsible for the deaths of 57 Israelis, and the injury of 1,000 more.

Is it fair—and I think it is fair—to ask the U.N. what its officials were saying to the Palestinian Authority about the use of a U.N.-run camp as a launching pad for terrorism? To many Israelis, it appears as if the U.N. turned a blind eye to Palestinian terrorism, while it seems intent on smearing Israel for its legitimate response to that terror.

I would suggest a fairer thing to do would be for the U.N. to hold an internal review and ask internally what the U.N. team in Jenin, responsible for Jenin, knew or did not know about the role the Palestinian Authority was playing. What did they know? I am not saying they were complicitous. What did they know?

With such a breakdown, wouldn't we be looking if it occurred here? If there was a group in charge of overseeing a particular dilemma within the United States, and something terrible happened, wouldn't we ask ourselves, What did we know about what was going on?

Nonetheless, not withstanding this, the Israelis have not rejected the U.N. team. Foreign Minister Peres of Israel, in a letter to Secretary of State Powell, has said the team should "examine the Palestinian terrorist infrastructure and activity in the camp and emanating from it which necessitated Israel's military actions. In doing so, the team will bear in mind the relevant elements of international law, including the right of self-defense and the obligation to prevent terrorism."

He goes on to say:

> [I]n accordance with the fact-finding nature of the team, its work should be submitted as facts only, and not observations. This is a vital concern for Israel in order to avoid abuse and misuse of the work of the Team for political purposes.

Peres then goes on to add:

> Israel understands that requests for interviews with public servants, past or present, or documents, will be made through the government of Israel. While Israel will carefully consider these requests, Israel will have the right to make final determinations regarding availability to the Team. This sovereign discretion is mandated by Israeli law.

Madam President, I ask unanimous consent that the entire text of the letter to Secretary of State Powell be printed in the RECORD.

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

DEPUTY PRIME MINISTER,
AND MINISTER OF FOREIGN AFFAIRS,
*Jerusalem, 29 April 2002.*

Mr. COLIN POWELL,
*Secretary of State, Washington, DC.*

DEAR MR. SECRETARY: Enclosed are points I raised in a phone conversation with Secretary General Anman on 28 April 2002.

It will be incumbent upon the Team, in considering "recent events in the Jenin refugee camp" to examine the Palestinian terrorist infrastructure and activity in the camp and emanating from it which necessitated Israel's military actions. In so doing, the Team will bear in mind also the relevant elements of international law, including the right of self-defense and the obligation to prevent terrorism.

In accordance with the fact-finding nature of the Team, its work should be submitted as findings of facts only, and not observations. This is a vital concern for Israel in order to avoid abuse and misuse of the work of the Team for political purposes.

Israel understands that requests for interviews with public servants, past or present, or documents, will be made through the Government of Israel. While Israel will carefully consider these requests, Israel will have the right to make final determinations regarding availability to the Team. This sovereign discretion is mandated by Israeli law. Equally, in the spirit of fairness, and with a view to assuring that accurate factual information is provided, Israel should have the opportunity, during the fact-finding work of the Team, to comment on any statements received by the Team from any other Israeli individuals or organizations.

I emphasized the sensitive nature of Israel's present situation, both here in the area and in international fora. Faced with a relentless battle against terrorism, on the one hand, and wishing to cooperate with the International community, on the other, we are obliged to ensure that our very basic interests, and those of our military and security servicemen, are fully protected.

Sincerely yours,

SHIMON PERES.

Mr. BIDEN. Madam President, what is so unreasonable about these requests? Would any other democratic country behave any differently? Indeed, would any Arab country ever be subjected to a similar factfinding investigation in the first place? Perhaps the false cries of massacre coming from Arab circles are a reflection of what they may have come to expect from their own governments.

Was there ever a U.N. factfinding team that investigated the Syrian massacre of as many as 20,000 civilians in the city of Hama in 1982? Was the international press corps ever able to conduct their own investigations there as they are now in Jenin?

Was there ever a U.N. investigation of the genocidal Anfal campaign launched by Saddam Hussein against the Kurds in the late 1980s?

Of course not. There is a double standard when it comes to Israel. And many of those criticizing Israel today know that Israel holds itself to a higher standard than the countries I mentioned.

And Israel is saying the U.N. team is welcome as long as it has a fair mandate and agreed-upon terms of reference. If there is to be true factfinding, and not a witch hunt, then what is so unreasonable about Israel's requests?

My purpose is not to apologize for Israel. As some of you know—both in the caucus, out of the caucus, here on the floor, and in other fora—I have been very critical of some of Israel's actions.

Indeed, many Israelis have raised questions about the military operation in Jenin, including allegations of disproportionate use of force and the denial of medical and humanitarian access.

In fact, the leading Israeli newspaper editorialized yesterday that the army should conduct an internal investigation about possible gratuitous vandalism and destruction of property.

Did Israel do everything right in Jenin? In all probability, no. Did they engage in a wholesale massacre of innocent civilians? No.

How many Arab countries have the capacity for such self-examination? How many Arab countries have a supreme court that would do as the Israeli Supreme Court did to intervene to prevent the Israeli Army from removing bodies in Jenin?

We are not talking about some dictatorship or puppet regime. The Israeli Supreme Court—not an international organization—the Israeli Supreme Court intervened and said: Whoa, don't remove those bodies, army. We want to know what the facts are.

So to give this presumption that Israel intentionally massacred, and then attempted to cover up, I think is incredibly unfair and will be proven, beyond a reasonable doubt, to be wrong.

I believe we have an obligation to examine the facts before we jump to conclusions. Based on reports now coming from Jenin, it appears that far too many reached conclusions before they had the facts.

In the end, Madam President, some may choose to cling to myths in order to perpetuate hatred and conflict. Some prefer to live in the realm of fiction rather than deal with cold, hard facts. But the rest of us should not engage in such self-delusion. If my reading of the facts is correct—and it may not be—but if it is correct, then we will, in the coming days, see the Jenin massacre as the massacre that never was.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that the Senate

proceed to a period of morning business with Senators allowed to speak therein for a period not to exceed 5 minutes each.

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

## NEW SOLUTIONS TO CHINESE PROLIFERATION PRACTICES

Mr. BYRD. Madam President, an official of the People's Republic of China, who many say will be the next leader of China when the scheduled leadership succession occurs next fall, is making his first visit to the United States this week. Mr. H.E. Hu Jintao, the current Vice President of China, will be getting his first up-front taste of official Washington. This is an opportunity to make it clear how we feel about certain Chinese policies, most particularly in the area of Chinese proliferation practices. Let's hope he takes back with him the right impressions.

President Bush made a summit visit to China, and met with President Jiang Zemin this past February. I liked the tone that he set in the meeting with Chinese leaders. He was serious and businesslike, and eschewed what had been a practice of overly positive gladhanding which runs the risk of communicating the wrong message.

President Bush's approach, it would appear, did seem to be somewhat productive with the Chinese leadership. For example, during a speech at Tsinghua University in Beijing, the President made a strong case for American values and religious freedom. The speech was broadcast live and unedited throughout China, an unprecedented event for an American President. So that is a small step forward, and I commend the President on his speech, which I hope received wide attention in China.

Less successful were the President's attempts to bring the Chinese around on the matter of proliferation of technologies associated with weapons of mass destruction and their delivery systems. This has been a bone of contention between the U.S. and China for many years, despite repeated assurances by the Chinese that they would cease providing these technologies to states such as Iran, Iraq, Sudan, Pakistan, North Korea, Libya and others.

For example, in November of 2000, the U.S. and China signed an agreement stipulating that China would stop its proliferation practices. The Chinese have not yet implemented that agreement. We should insist on implementation. The same goes for the multilateral Missile Technology Control Regime, the MTCR, a voluntary agreement among 28 nations to restrict the proliferation of weapons of mass destruction. China, although not among the 28 member nations, has promised to adhere to the MTCR. Let's see some delivery on that. Although President Bush has made new proposals in this area to the Chinese leaders, to date, his efforts have been rebuffed.

The Chinese have also stated that they are ready to issue export control regulations that will make it clearly illegal for Chinese companies to proliferate specific items. Where is the list? We might wish to consider making certain transfers of technology or other items the Chinese want from us contingent on an acceptable export control list plus the implementation and enforcement of export control regulations. This is an area where we need to close some loopholes and demonstrate to the Chinese that the United States is serious about stopping this dangerous practice. The Chinese are very attentive to actions, and not overly impressed by rhetoric.

The Chinese seem to have the psychology backwards. In order for them to comply with commitments they have already made, they have said that the U.S. should provide more incentives to deliver on their promises. They would like, in particular, for the U.S. to free up and approve licenses for satellite launches in China. I see it the opposite way: in the face of noncompliance and lack of progress on the November 2000 pledges regarding missile technology exports, we should, first, refuse to grant any licenses for satellite launches in China; and, second, withhold or prohibit the export of additional high technology and science that the Chinese badly want.

What is the current situation? First, the so-called sanctions regime which penalizes such behavior does not work. When a Chinese company is found to have provided missile technologies to, let us say, Iran or Iraq, U.S. law today provides that the company be prohibited from doing business in the U.S. The prohibition may look good on paper, but it appears to provide no real deterrent to Chinese companies that deal on the international market.

Second, the Chinese government makes a pretense of not knowing that so-called private companies in China are engaging in this behavior. This boggles the mind. Of course the government knows, or can quickly find out. We need to help the Chinese government focus on this matter, and so I propose that we consider changing our sanctions laws in this area to penalize the Chinese government itself for this behavior, regardless of whether the culprit is the government or a private company. Restrictions could be immediately slapped on exports of various technologies and scientific advances from the U.S. that are of high importance to the Chinese, such as space launch and other technologies that they covet from us. Only by immediate and painful steps will the Chinese government be motivated to end this practice, and drop the pretense of being ignorant of these transactions.

The Chinese government is capable of practicing a very effective form of brutal dictatorship in areas, such as religious freedom, and freedom of the press and assembly, any time it chooses to do so. It has been very effective, for example in crushing the Falun Gong religious movement in a very short period of time throughout China. Surely Chinese leaders can exert equal pressure to stop the proliferation of missile technology and end a practice that is anathema to civilized nations and the international community.

I would remind my colleagues that the Chinese themselves do not hesitate to use trade sanctions to correct what they see as unfair actions by other nations. Recently, when the Japanese slapped high tariffs on Chinese mushrooms and other agricultural products, the Chinese immediately retaliated by stopping the importation into China of Japanese automobiles. The Japanese got the message in very short order and dropped the agricultural tariffs. So the Chinese know how to fashion punishments to fit the crime. That is all I am suggesting here. We should consider a credible sanctions regime, on items that the Chinese really care about, that could stop in its tracks the very dangerous practice of the proliferation of advanced missiles systems and weapons to states which should not be getting them.

A related consideration is that the Chinese, who are relying more and more on imported oil, seem to be attempting to secure long-term energy contracts with the regimes which are the recipients of their advanced weapons technologies. To the extent that there is a quid pro quo here, and clearly that appears to be the case, we might consider helping the Chinese secure contracts for energy supplies from sources other than rogue states, on the condition that proliferation end. This form of carrot could well be used as an incentive to change behavior.

In sum, I am suggesting a mixed basket of disincentives and incentives, penalties and rewards, to encourage the Chinese to get out of the proliferation business.

Secretary of State Powell has called Chinese noncompliance on nonproliferation an ''irritation'' in the U.S.-Chinese relationship. I would characterize it as an open wound.

The Chinese are dragging their feet on implementing agreements and assurances with the U.S. on proliferation, and hiding behind various transparent excuses. It is time for Congress and the Administration to consider specific changes in the laws dealing with sanctions on proliferation practices.

## CHANGES TO H. CON. RES. 83 PURSUANT TO SECTION 314

Mr. CONRAD. Madam President, section 314 of the Congressional Budget Act, as amended, requires the chairman of the Senate Budget Committee to make adjustments to budget resolution allocations and aggregates for amounts designated as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Pursuant to section 314, I hereby submit the following revisions to H. Con.

Res. 83 as a result of an emergency designation in P.L. 107–147, the Job Creation and Worker Assistance Act of 2002.

Madam President, I ask unanimous consent to print in the RECORD a table which reflects the changes made to the allocations provided to the Senate Committee on Finance and to the budget resolution aggregates enforced under section 311(2)(A) of the Congressional Budget Act, as amended.

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

| | ($ millions) |
|---|---|
| Current Allocation to the Senate Finance Committee: | |
| FY 2002 Budget Authority | 703,971 |
| FY 2002 Outlays | 703,440 |
| FY 2002–06 Budget Authority | 3,767,770 |
| FY 2002–06 Outlays | 3,765,024 |
| FY 2002–11 Budget Authority | 8,335,364 |
| FY 2002–11 Outlays | 8,328,746 |
| Adjustments: | |
| FY 2002 Budget Authority | 5,984 |
| FY 2002 Outlays | 5,755 |
| FY 2002–06 Budget Authority | 5,464 |
| FY 2002–06 Outlays | 5,675 |
| FY 2002–11 Budget Authority | 1,067 |
| FY 2002–11 Outlays | 1,328 |
| Revised Allocation to the Senate Finance Committee: | |
| FY 2002 Budget Authority | 709,955 |
| FY 2002 Outlays | 709,195 |
| FY 2002–06 Budget Authority | 3,773,234 |
| FY 2002–06 Outlays | 3,770,699 |
| FY 2002–11 Budget Authority | 8,336,431 |
| FY 2002–11 Outlays | 8,330,074 |
| Current Revenue Aggregates: | |
| FR 2002 | 1,668,665 |
| FY 2002–06 | 8,884,348 |
| FY 2002–11 | 19,990,123 |
| Adjustments: | |
| FY 2002 | −39,465 |
| FY 2002–06 | −95,348 |
| FY 2002–11 | −35,269 |
| Revised Revenue Aggregates: | |
| FY 2002 | 1,629,200 |
| FY 2002–06 | 8,789,000 |
| FY 2002–11 | 19,954,854 |
| Current Aggregate Budget Authority and Outlays: | |
| FY 2002 Budget Authority | 1,674,515 |
| FY 2002 Outlays | 1,640,179 |
| Adjustments: | |
| FY 2002 Budget Authority | 5,984 |
| FY 2002 Outlays | 5,755 |
| Revised Aggregate Budget Authority and Outlays: | |
| FY 2002 Budget Authority | 1,680,499 |
| FY 2002 Outlays | 1,645,934 |

## LOCAL LAW ENFORCEMENT ACT OF 2001

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

I would like to describe a terrible crime that occurred in August 1994 in Sioux City, IA. Two gay men were assaulted in their home by two intruders. The assailants, Anthony L. Smith, 17, and Henry White, 18, were charged with first-degree burglary and second-degree criminal mischief under the State hate crime statute.

I believe that government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act of 2001 is now a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

# ADDITIONAL STATEMENTS

## TRIBUTE TO JOAN REISCHE

• Mr. SMITH of New Hampshire. Madam President, I rise today to pay tribute to Joan Reische, this year's Families in Transition Volunteer of the Year. Joan has been a dedicated volunteer in the Manchester Community since the 1970's, proving time and again why she is so deserving of this year's award.

Joan has spent countless hours volunteering and enriching the lives of those less fortunate. She has been extremely active in the Manchester Area League of Women Voters, serving as President of the Chapter. She has also been a member of the Board of the Manchester Historical District Commission, a member of the Board of the Palace Theater for Performing Arts, a member and President of the Manchester Area Family Planning Council and current chair of Families in Transition. Joan also serves as a guest reader for the Manchester Elementary Schools, working with children learning English as their second language.

I applaud Joan's commitment to serving and improving her community. Her time spent volunteering is above and beyond any standards set forth by her fellow philanthropists. Joan serves as a positive example for all in the Granite State. I commend her dedication and wish her continued success in her endeavors. It is an honor to represent you in the U.S. Senate.•

## HONORING THE AMERICAN HEART ASSOCIATION

• Mr. BUNNING. Madam President, I rise today to honor the members of the American Heart Association, AHA, for all that they have accomplished in this nation's ongoing struggle against heart disease and stroke.

Founded in 1924 by six cardiologists, the American Heart Association has worked for more than 70 years to accurately inform the American public of the dangers of heart disease and stroke. Through their effective fundraising efforts, the AHA has been able to perform extensive research on cardiovascular diseases and their effects on the American people. Research has shown that cardiovascular diseases, including heart disease and stroke, kill nearly 960,000 Americans each and every year; nearly a death every 33 seconds. Cardiovascular diseases also cost more than any other disease, with an estimated $330 billion in medical expenses and lost productivity in 2002.

Yesterday, Kentucky representatives of the Ohio Valley Affiliate of the AHA visited my office here in Washington. The information they provided proved to be quite shocking. In the Commonwealth of Kentucky, heart disease is the #1 killer. In fact, heart disease and stroke accounted for an astounding 43.5 percent of deaths in Kentucky in 1999; 12,098 Kentuckians died of heart disease and 2,710 died of stroke in 1999. Furthermore, Kentucky has the 6th highest death rate from heart disease, stroke, and other cardiovascular diseases in the nation. As can be seen through statistical data, cardiovascular diseases are killing Americans, specifically Kentuckians, in mass numbers every year. We must realize the severity of this problem and actively join the fight to ensure that future generations of Americans are well informed on how to prevent these diseases from occurring.

I applaud the work of the American Heart Association, especially that performed by the Ohio Valley Affiliate in Kentucky, and thank them for striving to create a healthier America. I ask that my fellow Senators join me in praising all involved with the AHA, for their work truly makes a difference to current and future generations of Americans.•

## THE ZACHARY AND ELIZABETH FISHER DISTINGUISHED CIVILIAN HUMANITARIAN AWARD FOR 2001

• Mr. BURNS. Madam President, I rise today to pay tribute to a wonderful group of people from the Great Falls, MT. Today, The Great Falls Area Chamber of Commerce Military Affairs Committee, MAC, will receive the Zachary and Elizabeth Fisher Distinguished Civilian Humanitarian Award for 2001 at the Pentagon on May 1, 2002. The competition for this award encompassed the entire Department of Defense.

The First Award is given to individuals or organizations that demonstrate exceptional patriotism and humanitarian concerns for the members of the armed forces or their families.

As you may know, Great Falls, MT, is home to Malmstrom Air Force Base. The 341 Space Wing controls 200 Minuteman III missiles. I have had the pleasure to speak to members of MAC on several occasions over the years at their monthly luncheons held at Malmstrom Air Force Base. Let me tell you, as this award signifies, they are second to none. The support they show for our Malmstrom Air Force Base men and women is more than just these monthly luncheons. For many years, MAC has sponsored a free picnic for military members and their families, with over 5000 people attending the annual event. At these picnics, MAC gives away over $15,000 in prizes, which comes from the local merchants. They also sponsor annual golf tournaments, raising money for military support programs. The leadership of MAC and

Malmstrom AFB work together as TEAM MALMSTROM to foster understanding of the issues facing the military and the Great Falls community.

As we face another round of base closings in the future, the Great Falls community has, once again, shown they are committed to the future of Malmstrom AFB and the brave men and women who serve their country from there. Malmstrom AFB's future is much brighter; the tours there by our Air Force men and women are better, due to the Great Falls MAC. Now, the entire Department of Defense knows Malmstrom AFB has tremendous support from the residents of the Great Falls, MT area. Congratulations MAC.●

## TRIBUTE TO DAVID HANEY

● Mr. SMITH of New Hampshire. Madam President, I rise today to pay tribute to Mr. David Haney of Bow. David was named New Hampshire's Business Financial Services Advocate of the Year by the Small Business Administration of the United States. David currently serves as the Regional Director of Community Development for Fleet Bank in Manchester, overseeing all community development activities in Maine and New Hampshire.

I commend David on his commitment to improving New Hampshire's small businesses. His business expertise and consistent efforts to increase the availability, as well as the amount and quality of technical and financial assistance to the SBA of New Hampshire have earned him respect and gratitude among the businesses within the Granite State. David's efforts have been instrumental in securing a Business Information Center for the SBA in New Hampshire which allows businesses even greater access to credit and business information.

David is credited with allowing the Granite State's small businesses continued access to information vital to the success of their organizations. I applaud David's commitment and wish him continued success in the future. It is an honor to represent you in the U.S. Senate.●

## MESSAGES FROM THE PRESIDENT

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

## EXECUTIVE MESSAGES REFERRED

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

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

## MESSAGES FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Mr. Hays, 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. 64. An act to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes.

H.R. 2109. An act to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach Park in Biscayne Bay, Florida, for possible inclusion in the National Park System.

H.R. 2628. An act to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama, and for other purposes.

H.R. 3421. An act to provide adequate school facilities within Yosemite National Park, and for other purposes.

H.R. 3909. An act to designate certain Federal lands in the State of Utah as the Gunn McKay Nature Preserve, and for other purposes.

The message also announced that the House has passed the following bill without amendment:

S. 1094. An act to amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 358. Concurrent resolution supporting the goals and ideals of National Better Hearing and Speech Month, and for other purposes.

H. Con. Res. 386. Concurrent resolution supporting a National Charter Schools Week, and for other purposes.

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes.

H. Con. Res. 391. Concurrent resolution honoring the University of Minnesota Golden Gophers men's hockey and wrestling teams and the University of Minnesota-Duluth Bulldogs women's hockey team for winning the 2002 National Collegiate Athletic Association championships.

H. Con. Res. 348. Concurrent resolution authorizing the use of the Capitol Grounds for the National Book Festival.

H. Con. Res. 347. Concurrent resolution authorizing the use of the Capitol Grounds for the National Peace Officers' Memorial Service.

H. Con. Res. 354. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run.

H. Con. Res. 356. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby.

The message also announced that the House has agreed to the amendments of the Senate to the bill (H.R. 169) to require that Federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

## MEASURES REFERRED

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

H.R. 64. An act to provide for the establishment of the position of Deputy Administrator for Science and Technology of the Environmental Protection Agency, and for other purposes; to the Committee on Environment and Public Works.

H.R. 2109. An act to authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach Park in Biscayne Bay, Florida, for possible inclusion in the National Park System; to the Committee on Energy and Natural Resources.

H.R. 2628. An act to direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3421. An act to provide adequate school facilities within Yosemite National Park, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3909. An act to designate certain Federal lands in the State of Utah as the Gunn McKay Nature Preserve, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 348. Concurrent resolution authorizing the use of the Capitol Grounds for the National Book Festival; to the Committee on Rules and Administration.

H. Con. Res. 354. Concurrent resolution authorizing the use of the Capitol Grounds for the District of Columbia Special Olympics Law Enforcement Torch Run; to the Committee on Rules and Administration.

H. Con. Res. 356. Concurrent resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby; to the Committee on Rules and Administration.

H. Con. Res. 358. Concurrent resolution supporting the goals and ideals of National Better Hearing and Speech Month, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H. Con. Res. 386. Concurrent resolution supporting a National Charter Schools Week, and for other purposes; to the Committee on the Judiciary.

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress that there should be established a National Minority Health and Health Disparities Month, and for other purposes; to the Committee on the Judiciary.

H. Con. Res. 391. Concurrent resolution honoring the University of Minnesota Golden Gophers men's hockey and wrestling teams and the University of Minnesota-Duluth Bulldogs women's hockey team for winning the 2002 National Collegiate Athletic Association championships; to the Committee on the Judiciary.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on April 30, 2002, she had presented to the President of the United States the following enrolled bill:

S. 2248. An act to extend the authority of the Export-Import Bank until May 31, 2002.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with

accompanying papers, reports, and documents, which were referred as indicated:

EC–6640. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Bayou Boeuf, Louisiana'' ((RIN2115–AE47) (2002–0036)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6641. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hutchinson River, Eastchester Creek, NY'' ((RIN2115–AE47) (2002–0034)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6642. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; Lawson's Creek and Trent River, New Bern, NC'' ((RIN2115–AE46) (2002–0009)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6643. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; San Diego Crew Classic'' ((RIN2115–AE46) (2002–0010)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6644. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Liquefied Natural Gas (LNG) Tanker Transits and Operation at Phillips Petroleum LNG Pier, Cook Inlet, Alaska (COTP Western Alaska 02–007)'' ((RIN2115–AA97) (2002–0063)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6645. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Youngs Bay, OR'' ((RIN2115–AE47) (2002–0035)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6646. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Lake Erie, Toledo, Ohio'' ((RIN2115–AA97) (2002–0060)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6647. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Gulf of Alaska, Narrow Cape Kodiak Island, AK (COTP Western Alaska 02–005)'' ((RIN2115–AA97) (2002–0061)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6648. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Captain of the Port Chicago Zone, Lake Michigan'' ((RIN2115–AA97) (2002–0062)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6649. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Chevron Conventional Buoy Mooring, Barberts Point Coast, Honolulu, HI'' ((RIN2115–AA97) (2002–0057)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6650. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Jennifer Heyman's Wedding Fireworks Display, Greens Farm, CT'' ((RIN2115–AA97) (2002–0058)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6651. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Patriots Weekend, Dockside Restaurant Fireworks Display, Port Jefferson, NY'' ((RIN2115–AA97) (2002–0059)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6652. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Water adjacent to Diablo Canyon Nuclear Power Plant, Avila Beach, California (COTP Los Angeles-Long Beach 02–006)'' ((RIN2115–AA97) (2002–0056)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6653. A communication from the Chief of the Regulations Unit, United States Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations: Port of Tampa, Tampa Florida (COTP Tampa 02–024)'' ((RIN2115–AA97) (2002–0064)) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6654. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Olathe, Colorado)'' (MM Doc. No. 99–28) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6655. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Greenville and Cooper, Texas'' (MM Doc. No. 00–63, RM–9837) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6656. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Lincoln and Sherman, Illinois'' (MM Doc. No. 01–120) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6657. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Jackson and Salyersville, Kentucky'' (MM Doc. No. 00–79) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6658. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations; Manning and Moncks Corner, South Carolina'' (MM Doc. Nos. NM Doc. No. 01–121, RM–10125) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6659. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Arriba, Bennett, Brush and Pueblo, Colorado; Pine Bluffs, Wyoming'' (MM Doc. No. 01–18, RM–10026, RM–10098) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6660. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments, FM Broadcast Stations; Cheyenne Wells, Flagler, and Stratton, Colorado'' (MM Doc. Nos. 01–250, RM–10273; 01–251, RM–10274 and 01–253, RM–10276) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6661. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Boscobel, Wisconsin'' (MM Doc. No. 01–349, RM–10350) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6662. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Cumberland, Kentucky and Weber City, Virginia; Glade Spring, Marion, Richlands and Grundy, Virginia'' (MM Doc. No. 99–244) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6663. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Charleston, SC'' (MM Doc. No. 01–222, RM–10240) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6664. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations; Butler and Reynolds, Georgia'' (MM Doc. No. 01–5; RM–10028; RM–10107) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6665. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Tulsa, OK'' (MM Doc. No. 01–313, RM–10251) received on April 25,

2002; to the Committee on Commerce, Science, and Transportation.

EC–6666. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, TV Broadcast Stations; Pueblo, CO'' (MM Doc. No. 01–332, RM–10334) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6667. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Charleston, SC'' (MM Doc. No. 01–335, RM–10338) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6668. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of FM Allotments; FM Broadcast Stations; Telluride and Norwood, Colorado'' (MM Doc. No. 01–249; RM–10272) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6669. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Holly Springs, MS and McBain, MI'' (MM Doc. No. 01–211, RM–10221 and 01–213, RM–10226) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6670. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments; FM Broadcast Stations; Rule, Texas'' (MM Doc. No. 01–183; RM–10192) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6671. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Oakville, Raymond, and South Bend, Washington'' (MM Doc. No. 00–41) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6672. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Kingston, NY'' (MM Doc. No. 00–121, RM–9674) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6673. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Salem, OR'' (MM Doc. No. 00–117, RM–9810) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6674. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Macon, Georgia'' (MM Doc. No. 01–1, RM–10013) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6675. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Mississippi State, MS'' (MM Doc. No. 01–301, RM–10207) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6676. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Bozeman, MT'' (MM Doc. No. 01–163, RM–10134) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6677. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Marquand, Missouri'' (MM Doc. No. 01–48) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6678. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, DTV Broadcast Stations; Albuquerque, NM'' (MM Doc. No. 01–160, RM–10159) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

EC–6679. A communication from the Senior Legal Advisor to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations; Mount Pleasant and Hemlock, Michigan'' (MM Doc. No. 01–107, RM–10057) received on April 25, 2002; to the Committee on Commerce, Science, and Transportation.

## 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. LEAHY (for himself, Mr. CAMPBELL, Mrs. CLINTON, and Mr. SCHUMER):

S. 2431. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits; to the Committee on the Judiciary.

By Mr. SMITH of New Hampshire:

S. 2432. A bill to prohibit the use of fiscal year 2003 Federal funds for support of the Palestinian Authority pending the cessation of terrorist activities by the Palestinian Authority; to the Committee on Foreign Relations.

By Mr. HUTCHINSON:

S. 2433. A bill to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''; to the Committee on Governmental Affairs.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2434. A bill to suspend temporarily the duty on Hydrated hydroxypropyl methylcellulose; to the Committee on Finance.

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

S. 2435. A bill to amend title 9 of the United States Code to exclude all employment contracts from the arbitration provisions of chapter 1 of such title; and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. LANDRIEU:

S. 2436. A bill to amend title 10, United States Code, to require the Secretary of Defense to carry out a quadrennial review of the quality of life in the Armed Forces, and for other purposes; to the Committee on Armed Services.

By Mrs. LINCOLN:

S. 2437. A bill to provide for the reliquidation of certain entries of vandium carbides and vandium carbonitride; to the Committee on Finance.

By Mr. SARBANES (for himself, Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. KERRY, Mr. KENNEDY, Mr. DURBIN, Ms. MIKULSKI, Mrs. CLINTON, Mrs. BOXER, Mr. WELLSTONE, Mr. TORRICELLI, Mr. DAYTON, and Mr. LEVIN):

S. 2438. A bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. HATCH , Mr. KENNEDY, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. MILLER, Mr. CORZINE, Ms. MIKULSKI, Mrs. CLINTON, and Mr. THURMOND):

S. 2439. A bill to prohibit human cloning while preserving important areas of medical research, including stem sell research.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

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

By Mr. SMITH of New Hampshire (for himself and Mr. NELSON of Nebraska):

S. Res. 258. A resolution urging Saudi Arabia to dissolve its ''martyrs'' fund and to refuse to support terrorism in any way; to the Committee on Foreign Relations.

By Mr. CRAIG:

S. Res. 259. A resolution designating May 2002, as ''Older Americans Month''; to the Committee on the Judiciary.

## ADDITIONAL COSPONSORS

S. 812

At the request of Mr. SCHUMER, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 812, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide greater access to affordable pharmaceuticals.

S. 830

At the request of Mr. CHAFEE, the name of the Senator from Wisconsin

(Mr. KOHL) was added as a cosponsor of S. 830, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 999

At the request of Mr. BINGAMAN, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 999, a bill to amend title 10, United States Code, to provide for a Korea Defense Service Medal to be issued to members of the Armed Forces who participated in operations in Korea after the end of the Korean War.

S. 1022

At the request of Mr. WARNER, the name of the Senator from Arkansas (Mr. HUTCHINSON) was added as a cosponsor of S. 1022, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1210

At the request of Mr. CAMPBELL, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Hawaii (Mr. AKAKA), the Senator from Montana (Mr. BAUCUS), the Senator from New Mexico (Mr. BINGAMAN), and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of S. 1210, a bill to reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

S. 1365

At the request of Mr. JEFFORDS, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1365, a bill to authorize the Secretary of the Department of Housing and Urban Development to make grants to States for affordable housing for low-income persons, and for other purposes.

S. 1370

At the request of Mr. MCCONNELL, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 1370, a bill to reform the health care liability system.

S. 1383

At the request of Mrs. CLINTON, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1383, a bill to amend the Internal Revenue Code of 1986 to clarify the treatment of incentive stock options and employee stock purchases.

S. 1408

At the request of Mr. ROCKEFELLER, the name of the Senator from Minnesota (Mr. WELLSTONE) was added as a cosponsor of S. 1408, a bill to amend title 38, United States Code, to standardize the income threshold for copayment for outpatient medications with the income threshold for inability to defray necessary expense of care, and for other purposes.

S. 1523

At the request of Mrs. FEINSTEIN, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1523, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1644

At the request of Mr. CAMPBELL, the names of the Senator from Utah (Mr. HATCH) and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1644, a bill to further the protection and recognition of veterans' memorials, and for other purposes.

S. 1867

At the request of Mr. LIEBERMAN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1867, a bill to establish the National Commission on Terrorist Attacks Upon the United States, and for other purposes.

S. 2020

At the request of Mr. GREGG, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2020, a bill to establish the Department of National Border Security.

S. 2051

At the request of Mr. REID, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Kentucky (Mr. MCCONNELL) were added as cosponsors of S. 2051, a bill to remove a condition preventing authority for concurrent receipt of military retired pay and veterans' disability compensation from taking affect, and for other purposes.

S. 2055

At the request of Ms. CANTWELL, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2055, a bill to make grants to train sexual assault nurse examiners, law enforcement personnel, and first responders in the handling of sexual assault cases, to establish minimum standards for forensic evidence collection kits, to carry out DNA analyses of samples from crime scenes, and for other purposes.

S. 2184

At the request of Mr. BREAUX, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2184, a bill to provide for the reissuance of a rule relating to ergonomics.

S. 2194

At the request of Mr. MCCONNELL, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2194, a bill to hold accountable the Palestine Liberation Organization and the Palestinian Authority, and for other purposes.

S. 2215

At the request of Mrs. BOXER, the names of the Senator from Georgia (Mr. MILLER), the Senator from Michigan (Ms. STABENOW), and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 2215, a bill to halt Syrian support for terrorism, end its occupation of Lebanon, stop its development of weapons of mass destruction, cease its illegal importation of Iraqi oil, and by so doing hold Syria accountable for its role in the Middle East, and for other purposes.

At the request of Mr. SANTORUM, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. 2215, supra.

S. 2221

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2221, a bill to temporarily increase the Federal medical assistance percentage for the medicaid program.

S. 2230

At the request of Mr. SPECTER, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2230, a bill to amend title 38, United States Code, to make permanent the authority of the Secretary of Veterans Affairs to guarantee adjustable rate mortgages, to authorize the guarantee of hybrid adjustable rate mortgages, and for other purposes.

S. 2231

At the request of Mr. SPECTER, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2231, a bill to amend title 38, United States Code, to provide an incremental increase in amounts of educational assistance for survivors and dependents of veterans, and for other purposes.

S. 2246

At the request of Mr. DODD, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 2246, a bill to improve access to printed instructional materials used by blind or other persons with print disabilities in elementary and secondary schools, and for other purposes.

S. 2428

At the request of Mr. KERRY, the names of the Senator from Oregon (Mr. WYDEN) and the Senator from Oregon (Mr. SMITH) were added as cosponsors of S. 2428, a bill to amend the National Sea Grant College Program Act.

S. RES. 247

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. Res. 247, a resolution expressing solidarity with Israel in its fight against terrorism.

At the request of Mr. LIEBERMAN, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Indiana (Mr. BAYH), the Senator from Illinois (Mr. DURBIN), the Senator from South Dakota (Mr. JOHNSON), the Senator from Utah (Mr. HATCH), the Senator from Louisiana (Mr. BREAUX), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Kansas (Mr. BROWNBACK), the Senator from Kentucky (Mr. BUNNING), the Senator from Ohio (Mr. DEWINE), the Senator from Kentucky (Mr. MCCONNELL), the Senator from Alaska (Mr. MURKOWSKI),

the Senator from Oklahoma (Mr. NICKLES), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Maine (Ms. SNOWE), the Senator from Mississippi (Mr. COCHRAN), the Senator from Connecticut (Mr. DODD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Arizona (Mr. MCCAIN), the Senator from Alabama (Mr. SHELBY), and the Senator from Tennessee (Mr. THOMPSON) were added as cosponsors of S. Res. 247, supra.

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. Res. 247, supra.

S. RES. 255

At the request of Mrs. FEINSTEIN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 255, a resolution to designate the week beginning May 5, 2002, as ''National Correctional Officers and Employees Week.''

S. CON. RES. 103

At the request of Mrs. CLINTON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. Con. Res. 103, a concurrent resolution supporting the goals and ideals of National Better Hearing and Speech Month, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY (for himself, Mr. CAMPBELL, Mrs. CLINTON, and Mr. SCHUMER):

S. 2431. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits; to the Committee on the Judiciary.

Mr. LEAHY. Madam President, today I proudly join with Senators CAMPBELL, and CLINTON to introduce the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act of 2002. I want to thank my colleagues for their leadership and strong support for public safety officers and their families. I also commend Representative NADLER and Representative MANZULLO for their leadership on the House version of this bill.

This bill aims to restructure the Public Safety Officers' Benefits Program to expressly include chaplains as members of the law enforcement and fire units in which they serve, and would make these chaplains eligible for the benefits available to public safety officers who have died or who have been permanently disabled as a result of injuries sustained in the line of duty. In addition, the Act would expand the list of those who may receive benefits in the event of a public safety officer's death in the line of duty by including as potential beneficiaries the persons named on the most recently executed life insurance policy of the deceased officer. In short, this legislation will ensure that the families of chaplains killed in the line of duty receive due payments through the Public Safety Officers' Benefits program.

On September 11, 2001, Father Mychal Judge, a chaplain with the New York City Fire Department, was killed by falling debris as he ministered to victims of the horrific terrorist attacks on the World Trade Center. He was survived solely by his two sisters.

Current law allows the Bureau of Justice Assistance to determine whether or not a public safety officer died as a direct or proximate cause of a personal injury sustained in the line of duty, and, if such criterion is met, directs the BJA to pay a monetary benefit of $250,000 to the surviving family members of the officer. In the case of Father Judge, the BJA correctly determined that he was eligible for payment of death benefits. However, Father Judge had no wife or children, and outlived his parents, and no benefits were paid to his life insurance beneficiaries, his sisters, as they were ineligible under existing law to qualify as his beneficiaries and receive death benefits. This case is not unique, of the approximately 450 public safety officers killed in the September 11 attacks, there are 10 individuals known to have died without spouses, children or parents, so the $250,000 death benefit will not be paid. This is simply wrong.

For the purpose of determining benefit eligibility, the U.S. Code limits ''public safety officers'' to law enforcement officers; firefighters; rescue crews; FEMA employees; and members of State, local, or tribal emergency management or civil defense agencies who perform official duties in cooperation with FEMA. While the language of existing law could be interpreted to include chaplains, the Mychal Judge Police and Fire Chaplains Public Safety Officers' Benefit Act would resolve any existing ambiguities. It specifically recognizes chaplains as public servants eligible for Public Safety Officers' Benefits so long as they serve as officially recognized or designated members of a legally organized volunteer fire or police department, or are officially recognized or designated public employees of a legally organized fire or police department, and was responding to a fire, rescue, or police emergency when injured or killed.

Additionally, this legislation would expand the list of those allowed to receive such benefits in the event of an officer's death in the line of duty. Current law restricts such beneficiaries to the spouse, child, or parent of the decedent. Our bill would expand this list, which would still give priority to spouses and children, but, in the event that neither survived the officer, would allow the monetary benefit to be paid to the individual designated by such officer as a beneficiary under the officer's most recently executed life insurance policy. In the event that there was no such individual named or that an individual so named did not survive the officer, the benefit would then be paid to the parents of the officer.

Before us we have yet another unique opportunity to provide much-needed relief for the survivors of the brave public servants who selflessly risk and sacrifice their own lives everyday so that others might live or be comforted. I look forward to continuing to work with my colleagues on legislation to support our nation's public safety officers who put their lives at risk every day to protect us, and I urge the Senate to pass this bill expeditiously.

By Mr. SMITH of New Hampshire:

S. 2432. A bill to prohibit the use of fiscal year 2003 Federal funds for support of the Palestinian Authority pending the cessation of terrorist activities by the Palestinian Authority; to the Committee on Foreign Relations.

Mr. SMITH of New Hampshire. Madam President, I rise today to offer a long-overdue bill for the purpose of defunding terrorism by Yasser Arafat and his supporters, by shutting off their flow of dollars from the U.S. Treasury.

It was the belief of the previous administration that Yasser Arafat and his Palestine Liberation Organization would live up to their renunciation of terrorism, and the newly-formed Palestinian Authority headed by Arafat and his PLO cronies could operate as a responsible governing body to further peace.

Instead, Arafat, the PLO and the PA have used the guise of their new-found political legitimacy, and agreement to the Tenet peace plan, to mask their real desires.

The reality of the situation is that the Palestinian Authority is joined at the hip with the PLO and other terrorist groups, such as Tanzim, the armed wing of Fatah, the largest faction of the PLO.

Tanzim is headed by a member of the PA's legislature, and is believed to have developed an alliance with Hamas and the Palestinian Islamic Jihad.

Our aid frees up other money the PA uses to pay for the bombs that are killing innocent men, women and children in Israel.

The chart was compiled by my staff from a published list of each such attack last year. That list is 25 pages long.

We dare not forget the level of terror visited upon Israel by Palestinian terrorists. The terror attacks in Israel in the year 2001 alone, from the first one on New Year's day, to the last one on December 12 are sobering: 79 separate incidents; 1220 injured; an additional 160 killed.

It has been reported that on March 2, 1973, Yasser Arafat ordered the execution of Cleo Noel, the American Ambassador to the Sudan. Arafat and his supporters have since been tied to countless acts of terror and murder. Therefore, it is beyond belief that our country to this day provides the Palestinian Authority and related entities more than $75 million dollars every year.

There have been foreign intelligence reports that Arafat has perhaps $10 billion stowed away, a small fortune. He doesn't ''need'' U.S. humanitarian aid.

It is flat out wrong to ask American taxpayers to support and subsidize the PA when Yasser Arafat and the PLO have made no attempt to use the resources at their disposal to provide the most basic of humanitarian aid and services to their people. The interest alone from Arafat's bank account could lift countless Palestinians out of squalid conditions.

Of course the opponents of my bill will argue that this is just ''humanitarian aid'' for Arafat-friendly NGO's, which begs the reality that those dollars free up Arafat's other money for him to then use to pay to manufacture bombs.

We now have the proof, in Arafat's own handwriting, that the Palestinian Authority is still paying the terrorist's bills.

Consider the proof, on the official letterhead of the Presidential Bureau of the Palestinian Authority, slash, Palestine Liberation Organization, bearing the signature of Yasser Arafat just 8 days after our country was attacked on 9–11, ordering $600 be paid from the treasury of the Palestinian Authority to each of three terrorists. Two of them are senior activists of the Fatah terrorist group, one of these, Ziad Da'as, is the head of the group behind a recent deadly terrorist attack on a Bat-mitzvah party in Israel. The Israeli Defense Ministry says they recently captured this document at Arafat's office in Ramallah.

There is still more proof: an order for Yasser Arafat to the Finance Ministry of the Palestinian Authority from January 7 of this year. It was faxed from Fatah on January 20. Here, Arafat orders the disbursement of $350 to each of the 12 named Fatah activists. According to the Israeli Defense Ministry, who captured this document at Arafat's headquarters in Ramallah, each of these 12 individuals are known terrorists, belonging to Fatah and or Tanzim. Arafat's approval is given in response to a request of Ra'ed Karmi, then the head of the Fatah and Tanzim terror groups, which perpetrated numerous murderous attacks on innocent Israeli civilians since September 2000.

As recently as April 7 of this year, Tim Russert on ''Meet the Press'' asked the Secretary of State to deny that Arafat is funding terrorism. Here is what Russert said:

''Israel says documents link Arafat and terrorism. They seized documents and made them public, which liked the office of Yasser Arafat with terrorist attacks carried out against Israeli civilians and other targets. One of the documents, said to be an invoice submitted by a leading Palestinian militant group to a Palestinian official.... Among other items, the invoice requested 20,000 Israeli Shekels, ($4,200 American), to buy electrical and chemical components for the production of a month's supply of 30 bombs. It's an invoice of terrorism, said Dori Gold, an advisor to Prime Minister Sharon. Mr. Secretary, do you believe the Palestinian Authority harbors or supports terrorism?

Do you know what our Secretary of State replied?

Did he deny the authenticity of this document? He did not.

Did he deny that Arafat paid the bill? He did not.

Did he deny that our taxpayer dollars are thus funding the killing of innocent men, women and children? He did not.

What he said was, ''It is a complex situation''.

There's nothing complex about it! Our tax dollars should never be used for terrorism. Period. End of discussion!

I don't care if Arafat has agreed to negotiate.

I don't care if Arafat has agreed to the Tenet plan.

I don't care that we need to keep contacts with the Palestinians, we can do that anyway without subsidizing, and therefore legitimating, their activity.

We should not be funding terrorism, and that is all there is to it

The United States should not continue a policy which has utterly failed to curb the violence on the part of these radical Islamic terrorist groups that Arafat and the PLO have sway over.

Furthermore, American taxpayers should not be fooled into footing a bill for ''humanitarian aid'' when Arafat and his regime have no desire in their hearts to co-exist peacefully with the State of Israel.

When our land was so brutally attacked last fall, the President set a new agenda. He said, ''From this day forward, any nation that continues to harbor or support terrorism will be regarded by the United States as a hostile regime.''

Well, my colleagues, that is what Mr. Arafat and his minions are: a hostile regime.

Even Secretary Powell, in that ''Meet the Press'' interview conceded as much. He said that the United States has never shrunk from the accusation that the Palestinian Authority supports and harbors terrorism.

So why then, why are we taking tens of millions of dollars every year out of our taxpayer's pockets and sending it to the P.A. where it can be used to free up other money to build bombs that suicidal maniacs strap on themselves to blow up a café, or a schoolbus?

The bill I am offering today will put an end to that. I say no more money should be sent to anyone that will use it in a way that frees up Arafat to pay his bomb-building bills.

I say no more money that goes to destabilizing the powderkeg in the Middle East.

I say no more money for Arafat's new intifada against Israel.

My colleagues, I strongly urge you to stand with me on the side of Israel and against terrorism and to support this bill.

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

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

S. 2432

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

**SECTION 1. PROHIBITION ON USE OF FISCAL YEAR 2003 FEDERAL FUNDS FOR SUPPORT OF PALESTINIAN AUTHORITY PENDING CESSATION OF TERRORIST ACTIVITIES BY PALESTINIAN AUTHORITY.**

(a) CONTINGENT PROHIBITION ON AVAILABILITY OF FISCAL YEAR 2003 FUNDS.—Notwithstanding any other provision of law, no funds available to any department, agency, or other element of the Federal Government for fiscal year 2003 may be obligated or expended for the purpose, or in a manner which would have the effect, of supporting—

(1) the Palestinian Authority;

(2) any entity supported by the Palestinian Authority;

(3) any successor entity to the Palestinian Authority or an entity referred to in paragraph (2); or

(4) any private, voluntary organization for—

(A) projects related to the Palestinian Authority; or

(B) projects located in Palestine that would otherwise be undertaken by the Palestinian Authority or an entity referred to in paragraph (2) or (3).

(b) TERMINATION OF PROHIBITION.—The prohibition in subsection (a) shall cease to be effective upon the submittal by the President to Congress of a certification that neither the Palestinian Authority, nor any entity supported by the Palestinian Authority, has engaged in planning or carrying out any terrorist act during the six-month period ending on the date of the certification.

(c) SUPPORT.—For purposes of this section, support shall include direct and indirect support, whether such support is financial or otherwise, including support for the Holst Fund of the World Bank and the United Nations Relief and Works Agency.

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By Mr. HUTCHINSON:

S. 2433. A bill to designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the ''Clarence B. Craft Post Office Building''; to the Committee on Governmental Affairs.

Mr. HUTCHINSON. Madam President, I rise today to introduce legislation to designate a United States postal facility in Fayetteville, AK in honor of one of America's greatest heroes and fellow Arkansan, Clarence B. Craft. This bill would name the facility at 1590 East Joyce Boulevard as the ''Clarence B. Craft Post Office Building.'' Mr. Craft passed away on March 28, 2002, but left behind a legacy of kindness and courage. Prior to his passing he was one of only 148 living persons to be warded our Nation's highest award for actions above and beyond the call of duty, the Congressional Medal of Honor. Clarence Craft was an extremely humble person, and rarely talked about the accolades that made him a ''special man'' as he was described by those who knew him well. He spent the last twenty-five years of his life in northwest Arkansas giving selflessly of his time as a volunteer for

the Veterans' Affairs Medical Center in Fayetteville. He was a true and dedicated friend to the veterans, one who lifted their spirits with personal visits, often visiting every patient in the hospital.

Clarence Craft's actions on May 31, 1945, are truly deserving of this recognition. On the island of Okinawa, then-Private First Class Craft launched a one-man attack against the Japanese defense on Hen Hill. Opposed by forces heavily armed with rifles, machine guns, mortars and grenades, Clarence Craft killed at least 25 enemy soldiers. His heroic efforts were the key to the U.S. forces' penetration of a defense that had repelled repeated, heavy assaults by battalion-sized U.S. formations for twelve days, and resulted in the entire defensive line crumbling.

I enthusiastically encourage my colleagues on both sides of the aisle to support this bill in honoring Clarence B. Craft, an American hero.

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

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

S. 2433

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

**SECTION 1. CLARENCE B. CRAFT POST OFFICE BUILDING.**

(a) DESIGNATION.—The facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, shall be known and designated as the ''Clarence B. Craft Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Clarence B. Craft Post Office Building.

By Mr. SCHUMER (for himself and Mrs. CLINTON):

S. 2434. A bill to suspend temporarily the duty on Hydrated hydroxypropyl methylcellulose; to the Committee on Finance.

Mr. SCHUMER. Madam President, 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. 2434

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

**SECTION 1. HYDRATED HYDROXYPROPYL METHYLCELLULOSE.**

(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:

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| '' | 9902.98.09 | Hydrated hydroxypropyl methylcellulose; cellulose, 2-hydroxypropyl methyl ether; cellulose; hydroxylpropyl methyl ether (CAS No. 9004–65–3) (provided in subheading 3912.39.00) ..... | Free | No change | No change | On or before 12/31/2005 | ''. |

(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.

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By Mr. SARBANES (for himself, Mr. DODD, Mr. SCHUMER, Ms. STABENOW, Mr. CORZINE, Mr. KERRY, Mr. KENNEDY, Mr. DURBIN, Ms. MIKULSKI, Mrs. CLINTON, Mrs. BOXER, Mr. WELLSTONE, Mr. TORRICELLI, Mr. DAYTON, and Mr. LEVIN):

S. 2438. A bill to amend the Truth in Lending Act to protect consumers against predatory practices in connection with high cost mortgage transactions, to strengthen the civil remedies available to consumers under existing law, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Madam President, earlier today, I had a press conference with a number of my colleagues, Senators SCHUMER, STABENOW, CORZINE, and CLINTON, as well as Mayor DeStefano of New Haven, CT, Mayor McCollum from Richmond, VA, Wade Henderson, Executive Director of the Leadership Conference on Civil Rights, and Tess Canja, a member of the Board of AARP, to announce the introduction of the ''Predatory Lending Consumer Protection Act of 2002.''

When I took over as Chairman of the Committee on Banking, Housing, and Urban Affairs last year, I made it clear that one of my highest priorities would be to use the Committee as a way to shine a bright light on the deceptive and destructive practices of predatory lenders.

We then held a series of three hearings, starting in July of 2001 and continuing through January of this year, at which the Committee heard from housing experts, community groups, legal advocates, industry representatives and victims of predatory lending in an effort to determine how best to address this problem. The bill I am introducing this afternoon, along with 14 of my colleagues, represents the result of the recent work of the Committee, as well as efforts from the previous Congress.

In particular, this legislation builds on the excellent work of my colleagues in the Senate and Representative LAFALCE, with whom I introduced legislation on this topic in the last Congress.

Homeownership is the American Dream. We say this so often that there is a danger of the idea becoming almost trivial, or devoid of real meaning. But it pays to step back for a second and understand how true and fundamental this is.

Homeownership is the opportunity for Americans to put down roots and start creating equity for themselves and their families. Homeownership has been the path to building wealth for generations of Americans, wealth that can be tapped to send children to college, pay for a secure retirement, or simply work as a reserve against unexpected emergencies. It has been the key to ensuring stable communities, good schools, and safe streets. Common sense tells us, and the evidence confirms, that homeowners are more engaged citizens and more active in their communities.

Little wonder, then, that so many Americans, young and old, aspire to achieve this dream.

The predatory lending industry plays on these hopes and dreams to cynically cheat people out of their wealth. These lenders target lower income, elderly, and, often, uneducated homeowners for their abusive practices. And, as a study released today by the Center for Community Change so clearly indicates, they target minorities, driving a wedge between these families and the hope of a productive life in the economic and financial mainstream of America.

We owe it to these hardworking families to provide protections against these unscrupulous pirates.

Let me share with you one of the stories we heard at our hearings in July. Mary Ann Podelco, a widowed waitress from West Virginia, used $19,000 from her husband's life insurance to pay off the balance on her mortgage, thus owning her home free and clear. Before her husband's death, she had never had a checking account or a credit card. She then took out a $11,921 loan for repairs. At the time, her monthly income from Social Security was $458, and her loan payments were more than half this amount. Ms. Podelco, who has a sixth grade education, testified that after her first refinancing, ''I began getting calls from people trying to refinance my mortgage all hours of the day and night.'' Within two years, having been advised to refinance seven times, each time seeing high points and fees being financed into her new loan, she owed $64,000, and lost her home to foreclosure.

Ms. Podelco's story is all too typical. Unfortunately, most of the sharp practices used by unscrupulous lenders and brokers, while unethical and clearly abusive, are perfectly legal. This bill is designed to address that problem by tightening the interest rate and fee triggers that define a high cost loans; the bill improves protections for borrowers receiving such loans by prohibiting the financing of exorbitant fees, ''packing'' in of unnecessary and costly products, such as credit life insurance, and limiting prepayment penalties. Finally, it protects these consumers' rights to seek redress by prohibiting mandatory arbitration, as the Federal Trade Commission proposed unanimously in 2000.

We cannot extol the virtues of homeownership, as we so often do, without

seeking at the same time to preserve this benefit for so many elderly, minority, and unsophisticated Americans who are the targets of unscrupulous lenders and brokers. This legislation will help achieve this important goal.

Before closing, let me say that, in addition to the aforementioned AARP, Leadership Conference on Civil Rights, and Center for Community Change, CCC, this bill has been endorsed by the National Consumer Law Center, ACORN, the National League of Cities, National Consumer Reinvestment Coalition, Consumers Union, Consumer Federation of America, NAACP, the Self-Help Credit Union, and the U.S. Conference of Mayors.

Finally, I ask unanimous consent to print in the RECORD the Executive Summary of the new CCC study entitled ''Risk or Race? Racial Disparities and the Subprime Refinance Market.'' While predatory lending is not by any means exclusively a problem of racial discrimination, this study demonstrates how much more minorities are forced to rely on subprime lending as a source of mortgage credit. Because predatory lending is concentrated in the subprime market, this study provides new evidence on why the protections provided by the Predatory Lending Consumer Protection Act are so important.

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

RISK OR RACE? RACIAL DISPARITIES AND THE SUBPRIME REFINANCE MARKET—A REPORT OF THE CENTER FOR COMMUNITY CHANGE

(Prepared by Calvin Bradford, Calvin Bradford & Associates, Ltd.)

EXECUTIVE SUMMARY

African-Americans and Hispanics are disproportionately represented in the subprime home refinance mortgage market. Surprisingly, this study finds that the disparity between whites and African-Americans and other minorities actually grows at upper-income levels and is greater for higher-income African-American homeowners than for lower-income white homeowners.

High levels of subprime mortgage lending represent markets where borrowers are paying unusually high costs for credit, while often depleting their home equity. Of particular concern are the consistent and pervasive racial disparities and concentration of subprime lending in communities of color and to borrowers of color at all income levels. The persistent racial patterns found in this analysis raise questions as to whether factors other than risk alone account for them.

These patterns exist in all regions and cities of all sizes, thereby raising concerns about the absence of prime conventional mortgage loans in these geographic areas. The subprime market is fertile ground for predatory lending, a disturbing part of the explosive growth in this market. Abusive credit practices in the subprime segment of the mortgage market are stripping borrowers of home equity they may spend a lifetime building. Thousands of families end up facing foreclosure, which destabilizes communities and often shatters families.

The subprime market provides loans to borrowers who do not meet the credit standards for borrowers in the prime market. Most subprime borrowers use the collateral in their homes for debt consolidation or other consumer credit purposes. The growth in subprime lending has benefitted credit-impaired borrowers, those who may have blemishes in their credit records, insufficient credit history, or non-traditional credit sources. When undertaken responsibly, subprime lending offers the opportunity to further expand lending markets to underserved populations.

However, research by the U.S. Department of Housing and Urban Development (HUD) and others has documented the waive of foreclosures occurring in the subprime market. High foreclosure rates for subprime loans indicate that many subprime borrowers are entering into mortgage loans they cannot afford. Thus, high levels of subprime lending indicate markets where borrowers have unusually high risks of losing their homes. The sheer geographic concentration of these loans, therefore, may have a significant negative impact not just on individual borrowers, but on entire neighborhoods. Foreclosed homes frequently remain vacant for extended periods, during which they are neglected. These vacant homes can depress property values and lead to neighborhood deterioration and disinvestment.

This study represents some important differences from previous work. It is national in scope, analyzing lending patterns in all 331 metropolitan statistical areas (MSAs), and ranking metropolitan areas by a variety of measures of subprime lending. It also includes a regional analysis, looking at the variations in lending patterns in different geographic regions within the country. The study focuses on single-family conventional refinance loans, where subprime lending is most concentrated, using 2000 data provided by the Federal Home Mortgage Disclosure Act. In addition to looking at lending patterns based on the race and income of the borrower, the study also analyzes the way these patterns play out at the neighborhood level and identifies the types of neighborhoods in which subprime loans are most concentrated. Finally, in conjunction with this study, the Center for Community Change is making available an important new national database on subprime lending, which is posted on our website at www.communitychange.org.

Our analysis is based on two key measures. One is the percentage of home refinance loans made to any given racial or ethnic group that are subprime. The second is a comparison between this figure and the percentage of subprime refinance loans made to white borrowers in the same geographic market. This comparison is expressed as a ratio, the ''racial disparity ratio.'' A ratio of 1.0 indicates no disparity, a ratio above 1.0 indicates that minorities are receiving a higher proportion of subprime loans than whites. The higher the ratio, the greater the disparity between white and non-white borrowers.

KEY FINDINGS

This study documents the pervasive racial disparities in subprime lending. Placed in the context of previous research, this study supports the position that risk alone does not explain these racial disparities. Our three major findings are as follows:

1. There are significant racial disparities in subprime lending, and these disparities actually increase as income increases.

Lower-income African-Americans receive 2.4 times as many subprime loans as lower-income whites, while upper-income African-Americans receive 3.0 times as many subprime loans as do whites with comparable incomes.

Lower-income Hispanics receive 1.4 times as many subprime loans as do lower-income whites, while upper-income Hispanics receive 2.2 times as many of these loans.

At a level of 5.93, St. Louis has the nation's highest disparity ratio between upper-income African-Americans and upper-income whites. It was one of five metropolitan areas where this disparity ratio was greater than 4.0. In another 18 cities, this ratio was between 3.0 and 4.0.

2. High concentrations of subprime lending and racial disparities in subprime lending exist in all regions of the nation.

Each region contains metropolitan areas where the level of subprime lending is above the national average of 25.31%.

In 17 MSAs, the level of subprime lending is more than 1.5 times the national norm. Fourteen of these are in the Southeast or Southwest, 7 are in Texas. El Paso has the highest overall level of subprime loans in the nation: 47.28%.

For African-Americans, Hispanics and Native Americans, disparities exist in all regions of the country, reaching as high as 3.25 or more in the Midwest and Great Plains.

3. High concentrations of subprime lending and racial disparities occur in metropolitan areas of all sizes.

Twelve of the 17 metropolitan areas that have concentrations of subprime lending more than 1.5 times the national norm have populations below 500,000. For example, Enid, Oklahoma, the nation's smallest metropolitan area, ranks #12 in percentage of subprime lending. On the other hand, 4 of these 17 metropolitan areas are above 1 million in population.

When we examined disparity ratios for cities in different size categories, we found the highest disparity ratios for African-Americans, Hispanics and Native Americans in cities under 250,000 in population. For example, the highest disparity ratio for African-Americans is found in Kankakee, Illinois, with a population of 103,833 and a disparity ratio of 6.10. For Asians, the highest disparity ratios are generally found in cities between 500,000 and the 1 million in population.

ADDITIONAL RACIAL IMPACTS

In examining the racial dynamics of subprime lending, our research identified three distinct dimensions to the patterns: (a) high overall percentages of subprime loans made to African-Americans and Hispanics; (b) high disparity ratios when these percentages are compared to white borrowers; and, (c) high disparity ratios for neighborhoods with significant African-American and Hispanic residents as compared to white neighborhoods. Examples of these patterns include:

*African-Americans*

In every single metropolitan area, the percentage of subprime loans made to African-American borrowers was higher than the national norm of 25.31%. (Note: certain metropolitan areas were excluded from this calculation because they had fewer than 100 loans to African-Americans, which was the number we set as the threshold for this calculation.)

Buffalo, New York had the highest percentage of subprime loans to African-Americans, 74.53%.

There were no metropolitan areas where the disparity ratio for African-Americans fell below 1.64.

The highest disparity ratio for African-Americans was Kankakee, Illinois, at 6.10. This was followed by Albany, Georgia, (5.69) and Dothan, Alabama (5.23)

Chicago had the highest disparity ratio for African-American census tracts: 4.12. It was followed by Milwaukee (4.04) and Philadelphia (3.40). Eight metropolitan areas had disparity ratios above 3.0 for African-Americans census tracts; another 65 cities had disparity ratios above 2.0.

*Hispanics*

The highest percentages of subprime loans to Hispanic borrowers were found in El Paso, Texas, (52.36%) and San Antonio, Texas (51.46%).

San Jose, California, had a disparity ratio for Hispanics of 2.45, the highest in the nation. Fourteen metropolitan areas had disparity ratio above 2.0.

In Corpus Christi, Texas, 75.48% of refinance loans in Hispanic census tracts were subprime, the highest percentage of subprime loans in Hispanic tracts in the nation.

Albuquerque, New Mexico, had the highest disparity ratio for Hispanic census tracts, 2.59.

CONCLUSION

The persistent racial disparities in levels of subprime lending found in this analysis do not, in and of themselves, constitute conclusive proof that there is widespread discrimination in the subprime lending markets. These disparities do, however, raise serious questions about the extent to which risk alone could account for such patterns. Discrimination has been a persistent problem in the home finance markets in the United States. The history of mortgage lending discrimination adds weight to the need to explore more fully the role that discrimination plays in the subprime markets through either differential treatment of individual minority borrowers or through the effects of industry practices.

The issue of whether there is racial exploitation in the subprime markets essentially rests on two issues. First, are the disparities in subprime lending related to race? Second, can these disparities be fully explained by legitimate risk factors? Recent research suggests that risk alone does not explain the huge racial disparities that this study found across all income levels. Among the factors that influence the racial disparities in subprime lending:

The absence of active mainstream prime lenders in minority markets has increased the chances that borrowers in these communities are paying a high cost for credit. For example, the finding that racial disparities actually increase as income increases suggests that a portion of subprime lending is occurring with borrowers whose credit histories would qualify them for lower-cost, conventional, prime loans.

Both Fannie Mae and Freddie Mac, the publicly chartered secondary mortgage market enterprises, have questioned whether risk explains the use of subprimes loans. Freddie Mac has estimated that from ''10 to 30 percent of borrowers who obtained mortgages from the subprime market could have qualified for a conventional loan through Loan Prospector'' (Freddie Mac's automated underwriting system). (See Freddie Mac, ''We open Doors for America's Families,'' Freddie Mac's Annual Housing Report for 1997).

Subprime refinance lending tends to be ''sold'' to customers rather than ''sought'' by them. Subprime lenders aggressively market their loans to potential borrowers. These marketing techniques disproportionately target minority market segments, often to homeowners with considerable equity in their homes. Since mainstream prime lenders are absent from many of these same communities, homeowners are more susceptible to being persuaded that the more expensive subprime loans are all that is available to them.

There is other evidence that risk factors do not explain racial differences in the use of subprime lending. A recent study by the research Institute for Housing America concluded, ''after controlling for borrower income, debt, and credit history, racial groups behave differently.'' (See Pennington-Cross, Yezer, and Nichols, Credit Risk and Mortgage Lending: Who Uses Subprime and Why? Research Institute for Housing America (2000).) Specifically, the study noted that minorities are more likely to use subprime lending than whites.

Subprime lending may provide certain borrowers with access to credit they could not otherwise obtain in the prime markets. However, the wide disparities in subprime lending to African-Americans and Hispanics at all income levels, suggest that factors other than risk may be at work. Further, the pervasiveness of subprime lending in communities of color, in all regions and in metropolitan areas of all sizes, raises important public policy concerns about possible adverse implications stemming from these heavy geographic concentrations. It also suggests that minority homeowners may be particularly vulnerable to predatory lenders, which by most accounts target communities with high levels of subprime lending.

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By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. KENNEDY, Mr. HARKIN, Mrs. BOXER, Mr. DURBIN, Mr. MILLER, Mr. CORZINE, Ms. MIKULSKI, Mrs. CLINTON, and Mr. THURMOND):

S. 2439. A bill to prohibit human cloning while preserving important areas of medical research, including stem cell research.

Mr. SPECTER. Madam President, I have sought recognition to introduce legislation to prohibit human cloning while preserving important areas of medical research, including stem cell research.

I introduce this legislation on behalf of Senator FEINSTEIN, Senator KENNEDY, Senator HATCH, Senator HARKIN, Senator BOXER, Senator DURBIN, Senator THURMOND, Senator MILLER, Senator CORZINE, Senator MIKULSKI, Senator CLINTON—and I do believe there will be other cosponsors joining that parade.

Stem cells offer enormous hope for solving some of the most tragic illnesses confronting Americans—and for that matter people worldwide. In November of 1998, stem cells burst on the scene, holding this unique promise. Stem cells are extracted from embryos, and they may be used to replace defective cells in the human body. For example, enormous progress has been made on conquering Alzheimer's, conquering Parkinson's, on cancer, on heart ailments, and many other illnesses.

A controversy arose because they came from embryos and embryos can produce life. Embryos are characteristically or customarily created for in vitro fertilization. Normally, about a dozen are created, maybe three or four are used, and the rest are discarded. It is from those discarded embryos that the stem cells are extracted. If all of those embryos could turn into human life, that would obviously be the very best use of those embryos. But there are some 100,000 in storage, and it is a practical impossibility for those embryos to be used for human life.

In last year's appropriation bill coming out of the subcommittee of Labor, Health, Human Services and Education, where I am the ranking member, $1 million was appropriated to promote adoption of embryos. We are now working on legislation to give a tax credit for people who use the embryos for adoption. But since there are so many of these embryos which are not going to be utilized for adoption purposes, and the alternatives are either to discard them or to use them, then it makes good sense to use them to save lives.

There is general repugnance against reproductive cloning. The legislation which we are introducing now would ban reproductive cloning and impose very substantial criminal penalties.

Unfortunately, the scientists use a term, ''therapeutic cloning,'' which has led to confusion and has given a process known as nuclear transplantation a bad name. Essentially what nuclear transplantation is, it is to take DNA from a cell of a person who has Parkinson's and then insert that in a egg of a woman with the DNA removed. Then the stem cells which are produced from that egg are compatible with the donor's DNA. For example, those stem cells could be used to combat the Parkinson's which that individual has.

The legislation contains very substantial protections to be sure that in the course of this nuclear transplantation none of this will be implanted in the womb of a woman or otherwise used to produce human cloning, reproductive cloning—cloning of a person. There are very tough criminal penalties attached.

To Reiterate, over the past 4 years, the Labor, Health and Human Services and Education Appropriations Subcommittee has held 14 hearings at which scientists, patients, and ethicists have described the promise of stem cell research and nuclear transplantation to produce stem cells. A problem arises from the fact that scientists misnamed the promising technique of nuclear transplantation to produce stem cells. In calling this technique therapeutic cloning, scientists used a word, which for many Americans, conjures up grotesque images from bad science fiction movies: mad scientists, bubbling test tubes, and row after row of zombie-like creatures.

Most Americans equate the word cloning with human reproductive cloning, where a carbon copy of a person is created in a process that also gave us Dolly the sheep and CC the cat. By this definition so-called therapeutic cloning is not really cloning at all. It is a process that creates embryonic stem cells genetically matched to a patient for the purpose of repairing unhealthy or injured tissue.

For example, if a patient has heart damage, the genetic material from one of his cells could be transplanted into a human egg cell that has had its genetic material removed. After a time, stem cells are produced, coaxed into becoming heart cells, and transplanted into

the damaged heart to restore function. Because the cells are an exact match of the patient's cells, no rejection would occur. Scientists have suggested that this procedure is better termed nuclear transplantation to produce stem cells.

Embryonic stem cells can be coaxed into becoming any of the more than 200 types of cells in the human body, and therefore may be used to treat a vast array of diseases and disorders including heart disease, Parkinson's disease, diabetes, paralysis, Alzheimer's disease, and severe burns. Scientists at the National Academy of Sciences estimate that the combination of nuclear transplantation and stem cell therapies could spare the lives of 170,000 Americans each year.

History shows us the devastating effects of tying the hands of scientists for ideological reasons. Galileo was imprisoned for his support of Copernicus' theory that the planets revolve around the sun. Pope Boniface VIII banned the practice of cadaver dissection in the 1200's. This set back the understanding of human anatomy and the practice of medicine for over 300 years. In the 1800's, the Scottish Calvinist Church objected to the use of anesthesia during labor because the ''pain of childbirth was God's will.'' Let us not repeat the mistakes of history.

Recently 40 American Nobel laureates stated that:

> legislation [that would ban all cloning] would foreclose the legitimate use of nuclear transplantation . . . and impede progress against some of the most debilitating diseases known to man.

Former Presidents Ford and Carter have written to President Bush stating their opposition to reproductive cloning and their strong support for nuclear transplantation to produce stem cells. I believe that when the facts are weighed there will be strong bipartisan support for such a policy.

As I said, today, I, along with Senators FEINSTEIN, KENNEDY, HATCH, HARKIN, BOXER, DURBIN, MILLER, CORZINE, MIKULSKI, CLINTON, and THURMOND am introducing a bill which would prohibit human cloning while preserving important areas of medical research, including nuclear transplantation to produce stem cells.

Let me review the key provisions of the bill. It would prohibit human reproductive cloning by imposing a criminal penalty of up to 10 years in prison and a civil penalty of at least one million dollars. It would allow medical research into nuclear transplantation to produce stem cells, also known as therapeutic cloning, thereby allowing promising research towards cures for a vast array of diseases to go forward. It would apply strict Federal ethical requirements to all nuclear transplantation research. These include informed consent, an ethics board review, and protections for the safety and privacy of research participants. The legislation imposes a $250,000 civil penalty for violation of the ethics requirements.

I believe that the Senate should act quickly to ban human cloning. In the process, we must preserve important areas of medical research, such as nuclear transplantation to create stem cells. The bill that I and my colleagues have introduced will do that in an ethical and moral way.

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. 2439

*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 ''Human Cloning Prohibition Act of 2002''.

**SEC. 2. FINDINGS.**

Congress makes the following findings:

(1) Human cloning is unsafe, immoral, and unacceptable.

(2) Federal legislation should be enacted to prohibit anyone from attempting to conduct human cloning, whether using Federal or non-Federal funds.

(3) To deter human cloning, any attempt to create a human clone should be a felony subject to severe punishment.

(4) The National Academies (including the National Academy of Sciences and the Institute of Medicine) and the National Bioethics Advisory Commission recommended that any legislative action undertaken to ban human cloning should be careful not to interfere with important areas of scientific research, such as nuclear transplantation to produce stem cells.

(5) The National Academies found that there are significant differences between human cloning and nuclear transplantation. Specifically, the Academies determined that, unlike human cloning, the creation of embryonic stem cells by nuclear transplantation does not involve implantation of an embryo in a uterus and thus cannot produce a complete, live-born animal (that is, a ''clone'').

(6) The National Academies found that scientific and medical considerations that justify a ban on human cloning are not applicable to nuclear transplantation.

(7) The National Academies concluded that nuclear transplantation has great potential to increase the understanding and potential treatment of various diseases and debilitating disorders, as well as our fundamental biological knowledge. These diseases and disorders include Lou Gehrig's disease, Parkinson's disease, Alzheimer's disease, spinal-cord injury, cancer, cardiovascular diseases, diabetes, rheumatoid arthritis, and many others.

(8) The National Academies determined that nuclear transplantation research could improve our ability to transplant healthy tissue derived from stem cells into patients with damaged or diseased organs. Such research could greatly reduce the likelihood that a person's body would reject that tissue and also help obviate the need for immunosuppressive drugs, which often have severe and potentially life-threatening side effects.

(9) Based on these expert conclusions and recommendations and other evidence, nuclear transplantation is a valuable area of research that could potentially save millions of lives and relieve the suffering of countless others, and thus should not be banned.

(10) The National Academies recommended that nuclear transplantation experiments should be subject to close scrutiny under the Federal procedures and rules concerning human-subjects research.

(11) Given the need for additional oversight in this area, strict ethical requirements for human subjects research, including informed consent, safety and privacy protections, and review by an ethics board, should be prescribed for all research involving nuclear transplantation, whether using Federal or non-Federal funds.

(12)(A) Biomedical research and clinical facilities engage in and affect interstate commerce.

(B) The services provided by clinical facilities move in interstate commerce.

(C) Patients travel regularly across State lines in order to access clinical facilities.

(D) Biomedical research and clinical facilities engage scientists, doctors, and others in an interstate market, and contract for research and purchase medical and other supplies in an interstate market.

**SEC. 3. PURPOSES.**

It is the purpose of this Act to prohibit human cloning and to protect important areas of medical research, including stem cell research.

**SEC. 4. PROHIBITION ON HUMAN CLONING.**

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 15, the following:

**''CHAPTER 16—PROHIBITION ON HUMAN CLONING**

''Sec.

''301. Prohibition on human cloning.

**''§ 301. Prohibition on human cloning**

''(a) DEFINITIONS.—In this section:

''(1) HUMAN CLONING.—The term 'human cloning' means implanting or attempting to implant the product of nuclear transplantation into a uterus or the functional equivalent of a uterus.

''(2) HUMAN SOMATIC CELL.—The term 'human somatic cell' means any human cell other than a haploid germ cell.

''(3) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(4) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes.

''(5) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(b) PROHIBITIONS ON HUMAN CLONING.—It shall be unlawful for any person or other legal entity, public or private—

''(1) to conduct or attempt to conduct human cloning; or

''(2) to ship the product of nuclear transplantation in interstate or foreign commerce for the purpose of human cloning in the United States or elsewhere.

''(c) PROTECTION OF RESEARCH.—Nothing in this section shall be construed to restrict practices not expressly prohibited in this section.

''(d) PENALTIES.—

''(1) CRIMINAL PENALTIES.—Whoever intentionally violates paragraph (1) or (2) of subsection (b) shall be fined under this title and imprisoned not more than 10 years.

''(2) CIVIL PENALTIES.—Whoever intentionally violates paragraph (1) or (2) of subsection (b) shall be subject to a civil penalty of $1,000,000 or three times the gross pecuniary gain resulting from the violation, whichever is greater.

''(3) FORFEITURE.—Any property, real or personal, derived from or used to commit a violation or attempted violation of the provisions of subsection (b), or any property traceable to such property, shall be subject to forfeiture to the United States in accordance with the procedures set forth in chapter 46 of title 18, United States Code.

''(e) RIGHT OF ACTION.—Nothing in this section shall be construed to give any individual or person a private right of action.''.

(b) ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end the following:

**''SEC. 498C. ETHICAL REQUIREMENTS FOR NUCLEAR TRANSPLANTATION RESEARCH, INCLUDING INFORMED CONSENT, INSTITUTIONAL REVIEW BOARD REVIEW, AND PROTECTION FOR SAFETY AND PRIVACY.**

''(a) DEFINITIONS.—In this section:

''(1) HUMAN SOMATIC CELL.—The term 'human somatic cell' means any human cell other than a haploid germ cell.

''(2) NUCLEAR TRANSPLANTATION.—The term 'nuclear transplantation' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus or all chromosomes have been or will be removed or rendered inert.

''(3) NUCLEUS.—The term 'nucleus' means the cell structure that houses the chromosomes.

''(4) OOCYTE.—The term 'oocyte' means the female germ cell, the egg.

''(b) APPLICABILITY OF FEDERAL ETHICAL STANDARDS TO NUCLEAR TRANSPLANTATION RESEARCH.—Research involving nuclear transplantation shall be conducted in accordance with subparts A and B of part 46 of title 45, Code of Federal Regulations (as in effect on the date of enactment of the Human Cloning Prohibition Act of 2002).

''(c) CIVIL PENALTIES.—Whoever intentionally violates subsection (b) shall be subject to a civil penalty in an amount that is appropriate for the violation involved, but not more than $250,000.

''(d) ENFORCEMENT.—The Secretary of Health and Human Services shall have the exclusive authority to enforce this section.''.

Mrs. FEINSTEIN. Mr. President, I rise to join my colleagues Senators SPECTER, KENNEDY, HATCH, HARKIN and THURMOND to introduce legislation banning human cloning, but permitting valuable stem cell research to continue.

At the dawn of a new era in medicine, it would be unconscionable for Congress to prohibit medical research that offers hope to so many people with crippling and often incurable diseases. There is broad agreement across our society that human reproductive cloning should be prohibited. And our bill bans human reproductive cloning. But there is also widescale support to continue research that may yield cures for paralysis, cancer, Parkinson's disease, Alzheimer's and so many other illnesses. And our bill allows this important research to continue. Simply put, nuclear transplantation research has nothing to do with cloning humans. Rather, it has everything to do with saving lives and alleviating suffering.

The legislation we are introducing today bans human reproductive cloning, that is, creating a whole-body, carbon copy of a human being. Such cloning is unsafe, immoral, and unacceptable. Under the bill, anyone who even attempts human cloning will be subject to 10 years in jail and a minimum $1 million fine. However, the bill does not ban somatic cell nuclear transplantation. This is a technique that offers enormous potential for providing cures for diseases such as cancer, diabetes, cystic fibrosis, and heart disease as well as conditions such as spinal cord injuries, liver damage, arthritis, and burns.

Somatic cell nuclear transportation works like this: 1. The nucleus, that is, the DNA, is taken from the body cell of a sick person; 2. It is then injected into an unfertilized egg from which the nucleus has been removed; and 3. The egg is stimulated to divide and produce stem cells. These stem cells can potentially grow into any organ or tissue. This ''new'' organ or tissue would have the same DNA as the sick person and thus can be implanted without rejection by the person's body. This could save the lives of the thousands of people every year waiting for an organ or tissue to be donated or who receive a transplant but suffer complications from powerful immuno-suppression drugs.

Today, almost 80,000 Americans are waiting for organ transplants, while hundreds of thousands more need tissue transplants. Nuclear transplantation research offers many other applications as well. It could be used to produce human proteins such as blood clotting factors that aid in healing wounds. It could yield information on stem cell differentiation, providing valuable information about the mechanism of aging and the cause of cancer. It could even be used to find a cure for cancer by teaching us how to reprogram cells. However, we must acknowledge that nuclear transplantation research, like all scientific and medical research involving human diseases and conditions, involves complex ethical issues.

Currently, this research is largely unregulated in the private sector. That is why this legislation would impose a number of ethical requirements on it, including informed consent, an ethics board review, and protections for the safety and privacy of research participants. These regulations are found in Subparts A and B of 45 CFR 46 and are incorporated in full into the bill we introduce today. Currently, these regulations apply to any research done or funded by the federal government. Our legislation would extend the regulations to all research involving somatic cell nuclear transplantation.

The bottom line is that these regulations will prevent exploitation of women as part of nuclear transplantation research and, more generally, require that researchers do this research in an ethical manner. These regulations are already routinely applied to government-funded researchers who do research on human subjects, and they seem to have worked well. Moreover, the bill provides that anyone engaging in unethical nuclear transplantation research would face up to a $250,000 fine.

I ask unanimous consent that a summary of Subparts A and B of 45 CFR 46 be printed in the RECORD directly following my remarks.

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

(See exhibit 1.)

Ms. FEINSTEIN. I would also add that I believe that there may be a need for even greater oversight over nuclear transplantation research than is provided in the bill we introduce today.

I intend to work with my colleagues to strengthen this legislation further before it is enacted. There may well be a need to include additional provisions for regulation and oversight. For one thing, I believe that we should add the full text of Subparts A and B of 45 CFR 46 to this legislation to make clear what the bill actually says. And I will work with my colleagues to do so. Unfortunately, competing legislation goes far beyond such regulation. It would completely ban nuclear transplantation—criminalizing scientific research that offers the promise of saving the lives of millions and relieving the suffering of countless others. In fact, it would even make it a crime for a doctor to cure a patient if that cure was developed overseas from nuclear transplantation research.

I strongly oppose such legislation. I believe that passing such a sweeping ban would be a huge mistake. As is the case with many medical technologies, it is not stem cell research techniques that are the problem, but some of their potential applications. The scientific and medical evidence is overwhelming that nuclear transplantation offers the promise of curing many deadly diseases and debilitating conditions. As Professor Irving Weissman, chair of the National Academies' panel on cloning, testified before a Judiciary Committee hearing I chaired, ''[T]here are no scientific or medical reasons [for banning nuclear transplantation], and such a ban would certainly close avenues of promising scientific and medical research.'' In fact, over 80 major organizations and associations have already come out in favor of our approach.

These include the American Medical Association, National Health Council, Parkinson's Action Network, Juvenile Diabetes Research Foundation, and Federation of American Societies for Experimental Biology, which represents over 600,000 medical researchers around the country. Moreover, the leading blue-ribbon scientific and medical panels that have examined the cloning issue have also supported our approach.

The National Bioethics Advisory Commission, the National Academies' Panel on Scientific and Medical Aspects of Human Cloning, and the California Advisory Committee on Human Cloning all concluded that we should ban human reproductive cloning, but not interfere with important areas of scientific research, including nuclear transplantation.

I have been very moved by the many sick people and their relatives that have contacted me and told me that my legislation offers them hope. One of the most compelling stories is that of

Kris Gulden who testified at our hearing on the subject. Ms. Gulden, a former veteran police officer, received several awards for her outstanding law enforcement work. She also maintained an active schedule outside the office, including winning the women's triathalon gold medal in August 1996 at the biannual International Police Olympics in Salt Lake City. Tragically a car struck Ms. Gulden while she was training for the 1998 AIDS Ride, leaving her with a severe spinal cord injury. That accident changed her life. Nine days before the accident, she was participating in a triathalon in Memphis. Nine days after the accident, she was left exhausted just trying to brush her teeth. I'll never forget her words: ''In my dreams, I still walk. I run, I play basketball, and I wear the uniform of the Alexandria Police Department. When the sun rises each morning, it brings reality with it. I rise to the sight of a wheelchair, yet I rise with the hope that maybe this will be the morning that I can move my legs.''

In the face of the enormous promise of nuclear transplantation research, it is difficult to see why anyone wants to dash the hopes of Kris Gulden and the millions of others facing debilitating and painful illnesses and ailments. As former Senator Connie Mack has testified before the Senate:

> A cell isn't human life if it hasn't been fertilized by a sperm and placed in the womb'' and '[t]he research value of these cells is enormous. They have the potential to form any cell in the body and can reproduce indefinitely. Studies in animals demonstrate that this could lead to cures and treatments for millions of people.

The legislation we introduce today would ban human reproductive cloning and preserve valuable medical research. I urge my colleagues to support this bill.

I would also ask unanimous consent that several letters I have received supporting the Specter-Feinstein-Kennedy-Hatch approach to cloning be printed in the RECORD.

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

JOINT STEERING COMMITTEE
FOR PUBLIC POLICY,
*Bethesda, MD, April 9, 2002.*

Hon. ORRIN G. HATCH,
*U.S. Senate, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR HATCH: I am writing to seek your help with efforts being made by many disease advocacy groups and by many of us in the scientific community to protect highly valuable scientific research from an overzealous legislative proposal intended to prohibit the cloning of human beings.

The measure in question, S. 1899, introduced by Senator Brownback and others, would, in effect, establish criminal penalties for three things: (i) attempts to produce a human being by methods that include transfer of a somatic cell nucleus (''nuclear transfer'') and placement of any resulting embryos into a uterus; (ii) the transfer of a human cell nucleus into an egg cell for any purposes; and (iii) the important of any products of nuclear transfer, including those used for medical treatment.

No scientist of my acquaintance believes that it is currently appropriate or safe, even if it were feasible, to undertake the complex process intended to result in the birth of a cloned human being. For that reason, you are unlikely to hear objections to the first prohibition established by the Brownback bill, even from those who may question whether legislation and criminal penalties are useful instruments for preventing attempts at cloning that might be undertaken by irresponsible individuals.

The second and third prohibitions, however, are deeply disturbing to many people, including those of use who have given considerable thought to the difficult ethical issues presented by these new technologies. The third prohibition is inappropriately punitive in the more obvious way: it could lead to punishment of seriously ill patients who have gone abroad to seek novel treatments that are unavailable in this country because they are based on nuclear transfer. But the second prohibition is troubling in a more profound way. For the first time in my experience, an American law would create criminal penalties for the use of a highly promising scientific method, regardless of the intent of the investigator, and would threaten to delay development of new therapies for common diseases.

To appreciate our concerns, it is important to understand the nature of what is called ''nuclear transfer''. Recent studies with experimental animals show that a cell nucleus containing all, but expressing only some, of the genes of an organism can undergo extensive changes, or ''reprogramming'', when moved from one cell environment to another. This means that a nucleus from a highly specialized cell—for example, a skin call—can radically revise the set of genes that it uses when it is put into another cell, such as an egg cell, from which the pre-existing nucleus has been removed. In the new environment of the recipient cell, the genes in the nucleus appear to function as appropriate to that environment.

Thus, when the recipient cell is an egg, the genes regain the ability to direct the progeny cells, which arise by division, to form nearly any of the many cell type that are found in a mature organism, if the cells are coaxed to do so by appropriate stimuli. This phenomenon has the potential to lead to great things a deeper understanding of human development, important insights into disease mechanism, and the abundant production of normal cells of virtually any type, which could then be used to treat a wide variety of diseases. Moreover, if a parent is the source of the transplanted, reprogrammed nucleus, the normal cells could be used to treat that individual without fear of immune rejection.

Clearly we have a lot to learn before we can efficiently apply nuclear transfer and reprogramming to medical purposes—most obviously, we need to learn the best recipes to foster reprogramming and development into the various cell types. But studies with certain animal models of disease already show that these strategies can work, and the fundamental discoveries that have emerged from work with nuclear transfer offer legitimate hope for still greater discoveries in the future.

Unfortunately, the opportunities make such discoveries and develop new therapies may well be denied to American scientists because of any inappropriate equation of the method used in reprogramming cells (nuclear transfer) and the goal of cloning whole organisms. This confusion is based in part on the use of nuclear transfer in an otherwise very different multi-step process that led ultimately to the birth of Dolly the sheep and other cloned animals. Indeed, S. 1899 considers transfer of a human somatic cell nucleus into an nucleated human egg for the purpose of reprogramming to be a punishable act of human cloning.

It is crucial to emphasize how nuclear transfer, the reprogramming step, differs from attempts to generate a full-fledged organism. Absent transfer to a uterus, the cells that result from nuclear transfer into an egg cytoplasm will not form the complex and organized collection of cell types that characterize a developing organism. The initial aggregate of fewer than 200 cells, formed after introduction of a nucleus into an egg, lacks the recognizable types of cells that are needed to develop into the organs of a human being, and it is barely visible to the naked eye. Individual cells from this aggregate, however, can be used to develop stem cell lines, to study development of specialized cell types in a Petri dish, and to prepare materials for cell-based therapies.

Furthermore, in the future, it is possible that cell reprogramming can be carried out in ways that do not involve the use of human egg cells or nuclear transfer itself. The chemicals in the cytoplasm of an egg cell that guide reprogramming have not yet been identified, but when they are it will be possible to use other cells and even simpler defined recipes to reprogram adult cells. Of course, these things will never happen, at least in this country, if the use of nuclear transfer to human eggs is outlawed.

The Brownback bill that we are worried about today closely resembles a bill (S. 1601) proposed in 1998 by Senator Bond and others. At that time, you helped to derail the passage of that ill-considered measure with an insightful letter to one of the bill's sponsors and a speech on the Senate floor. Many of my colleagues and I believe that the concerns you raised then about the need to ''ban cloning of human beings but do so in a way that allows, to the extent ethically proper, valuable research to continue'' are still valid. For that reason, I hope you will join us in opposing S. 1899.

Thank you for your consideration of my views on this important legislation. Needless to say, I am prepared to discuss any of the points I have made with you or your staff at any time.

With best personal regards,
HAROLD VARMUS,
*Chair, Joint Steering Committee for Public Policy.*

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CALIFORNIA INSTITUTE OF TECHNOLOGY,
*Pasadena, CA, April 8, 2002.*

Senator ORRIN G. HATCH,
*Hart Office Building, Washington, DC.*

DEAR SENATOR HATCH: I am writing in opposition to the Brownback bill on cloning.

I am a Nobel Laureate who has worked for 40 years in basic biological science and biotechnology. I have seen how a glimmer of an idea can grow to transform a technology, and I have great faith in the ability of basic science to create miraculous treatments for medical conditions.

The use of nuclear transfer into the embryonic cells for reproductive purposes (so-called reproductive cloning) is a technology that is a long way from being safe enough to be used to create human beings. So, issues of morality aside, I am totally opposed to using cloning technology for human reproduction. All of my colleagues with whom I have talked are equally opposed, but I am aware that there are people threatening to try to carry out the procedure. Thus, I support a legislative ban on reproductive cloning. I hope that any such ban will have a sunset clause so that in 5 years the question can be revisited.

There is another use of somatic cell nuclear transfer into early embryonic cells

that is quite different from the process of reproductive cloning. This is often called therapeutic cloning, although that is a terminology that many people find confusing. Such nuclear transfer could be used to produce individual stem cells that may have extraordinary medical value. It is also a valuable technique for probing the causes of genetic diseases. Twice this week, I have heard of new advances that make such a technology increasingly promising. Furthermore, the procedure whereby mouse cells derived by somatic cell nuclear transfer can be used therapeutically has just been described in the journal Cell, erasing any doubt about the feasibility of the method. Thus, it would be a great loss to medical science for somatic cell nuclear transfer for therapeutic use to be legislatively banned.

I am aware that there are bills in the Senate that would fit the requirements that I have set out. Senator Feinstein of my state along with Senator Kennedy has proposed such a bill as has Senators Specter and Harkin. They make the distinction between banning nuclear transfer for reproductive purposes and continuing to allow nuclear transfer for research and therapeutic purposes. These are bills that I can support.

Sincerely yours,

DAVID BALTIMORE,
*President.*

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AMERICAN ASSOCIATION FOR THE ADVANCEMENT OF SCIENCE,
*Washington, DC, February 28, 2002.*

DEAR SENATOR: The Board of Directors of the American Association for the Advancement of Science (AAAS) recently adopted a policy statement on human cloning. I am enclosing a copy for your attention.

Citing the serious risks associated with the procedure, the AAAS statement supports a legally enforceable ban on human reproductive cloning. At the same time, however, it backs stem cell research using cells derived with nuclear transplantation techniques, a procedure sometimes called therapeutic or research cloning. Such research offers enormous potential health benefits. However, because it also raises serious ethical, social, and religious concerns, it must be conducted under close scrutiny by the federal government.

AAAS is the world's largest general scientific society with over 135,000 individual members and 275 affiliated societies representing all fields of science and engineering. Founded in 1848, it is also the publisher of Science magazine and has long been a leader in promoting ethical and responsible science.

Sincerely,

ALAN I. LESHNER,
*Chief Executive Officer.*

Enclosure.

AAAS STATEMENT ON HUMAN CLONING

The American Association for the Advancement of Science (AAAS) recognizes the intense debates within our society on the issue of human cloning. Since 1997, AAAS has engaged the public and various professional communities in dialogue on the scientific and social issues associated with human cloning and stem cell research. Those experiences form the backdrop for this statement on human cloning.

BAN REPRODUCTIVE CLONING

AAAS endorses a legally enforceable ban on efforts to implant a human cloned embryo for the purpose of reproduction. The scientific evidence documenting the serious health risks associated with reproductive cloning, as shown through animal studies, make it unconscionable to undertake this procedure. At the same time, we encourage continuing open and inclusive public dialogue, in which the scientific community is an active participant, on the scientific and ethical aspects of human cloning as our understanding of this technology advances.

SUPPORT STEM CELL RESEARCH (INCLUDING ''RESEARCH CLONING'')

AAAS supports stem cell research, including the use of nuclear transplantation techniques (also known as research or therapeutic cloning), in order to realize the enormous potential health benefits this technology offers. Such benefits are likely to be many years away. If they are to be realized at all, however, it will only be through carefully designed research subject to peer review. Because there are religious, ethical, and social concerns raised by the prospect of creating stem cells for research purposes, we believe that research cloning should only proceed under close scrutiny by the federal government over both the public and private sectors.

EXERCISE APPROPRIATE OVERSIGHT

A thorough assessment of existing guidelines and policy, including consideration of possible new regulations specific to this type of research, should be undertaken in light of the concerns surrounding it.

*Adopted by the AAAS Board of Directors, Boston, Massachusetts, February 14, 2002.*

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THE AMERICAN SOCIETY OF HUMAN GENETICS,
*Bethesda, MD, February 5, 2002.*

Hon. DIANNE FEINSTEIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR FEINSTEIN: The American Society of Human Genetics (ASHG) is a society of researchers and professionals in human genetics that represents nearly 8000 scientists, physicians, nurses, genetic counselors, and students actively engaged in genetic discovery, teaching, and application of knowledge of human genetics and the human genome.

As a major scientific organization whose members have broad expertise and interest in matters related to human genetics, and in the application of genetic knowledge to the well being of people, the Society strives to be extremely thoughtful, thorough and ethical in pondering many of the scientific issues raised in public debate today. As stewards of the field of human genetics elected by the membership of the Society, the Board of Directors of ASHG affirms that basic research and the development of future applications of that research require the ongoing commitment to scientific integrity and social responsibility that has served our organization well for the last 50 years. In other words, scientists must proceed with commitment to rigorous critical evaluation and a heightened sense of responsibility to the patients who entrust their life and health to us.

In concert with these principles, it is important for you and your colleagues to know that the ASHG concurs wholeheartedly with your bill ''The Human Cloning Prohibition Act'' that bans reproductive human cloning but is finely crafted so as not to prohibit new and evolving techniques that could potentially change the course of human illness as we know it today so that the collective quality of life is enhanced for all of us. Dr. Bert Vogelstein, in his testimony before the Labor Health and Human Services subcommittee on December 4, 2001, so eloquently captured the distinction surrounding two very different medical endeavors—regenerative medicine and the cloning of a human—the former being the potential key to the problem of immune rejection, the latter being morally and medically unacceptable.

In closing, the Senate must be sure that any legislative action only bans cloning to create a human being and does no harm to legitimate biomedical research. Each Senate vote on proposed legislation must make this distinction clear or any ban would have profound negative impact on the advances that have been made thus far in this pioneering and exciting field.

We congratulate you and your fellow senators for your insight and conviction to advancing the field of biomedical research.

Sincerely yours,

DR. P. MICHAEL CONNEALLY,
*ASHG President.*

DR. JOANN A. BOUGHMAN,
*ASHG Executive Vice President.*

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APRIL 12, 2002.

CLOSING MINDS TO STEM CELL RESEARCH

The United States Senate is about to consider legislation that will determine the fate of a remarkable new form of medical research known colloquially as ''therapeutic cloning''. The research could lead to unprecedented treatments for human disease, but has fallen prey to the confused debate over human stem cell research on the one hand, and the prospects of creating a cloned person on the other—two very different exercises that are now intricately entwined.

The debate has its roots in the medical potential of human stem cells. All the tissues in our bodies arise from stem cells that are found in the early human embryo. Over the past several years, scientists have learned how to isolate and propagate human stem cells. There is hope that we will eventually be able to use these cells to more effectively treat cancer, diabetes, spinal cord injury, Alzheimer's and Parkinson's diseases, and others. This prospect has inspired great hope among individuals with ailments that had previously seemed incurable.

Human stem cells can be isolated in several ways. The most visionary approach utilizes a procedure that was first dubbed ''therapeutic cloning'', but should more accurately be termed ''somatic cell nuclear transfer'' or simply ''nuclear transplantation''. To perform nuclear transplantation, scientists replace the genetic material of an unfertilized human egg with that from an adult cell. The egg is then induced to proliferate into a primitive structure known as the ''blastocyst'', from which stem cells can be harvested. Tissue derived from such stem cells would be immunologically compatible with the donor of the genetic material, thus circumventing rejection of the tissue when it is transplanted into the donor in order to renew a failing organ.

Blastocysts produced by nuclear transplantation can also be implanted into the uterus in order to produce fully developed organisms that are genetically identical to the original donors—''clones'' such as the celebrated sheep Dolly. The prospect of using such ''reproductive cloning'' to create humans is repugnant to most scientists and the general public alike. Consequently, there is widespread support for legislation that would prohibit the production of human clones.

But the use of nuclear transplantation to obtain stem cells is another matter. At the time stem cells would be isolated from blastocysts produced by nuclear transplantation, the structures are no larger than the head of a small pin, of the order of 100–150 cells, and have no distinctive tissues—in particular, no neural tissue. Moreover, they have been obtained artificially, without even the intervention of fertilization, and will not be used to produce cloned individuals. They are biologically akin to the very early embryos produced in fertility clinics by fertilization in test tubes, except that they contain the genes of only one individual rather

than those of two. The U.S. condones the discard of surplus embryos made in fertility clinics. Why should it criminalize the medical use of blastocysts produced by nuclear transplantation? Unfortunately, the term ''therapeutic'' cloning'' was originally used to describe nuclear transplantation, so the procedure is now tarred with the same brush as reproductive cloning. Rarely has semantic inaccuracy been more misleading.

The Senate will be offered two very different legislative approaches to nuclear transplantation. One approach, sponsored by Senator Sam Brownback, would prohibit both reproductive cloning and nuclear transplantation itself. The other approach, sponsored in two similar forms by Senators Dianne Feinstein and Edward Kennedy, and by Senators Tom Harkin and Arlen Specter, would ban reproductive cloning, but permit research with nuclear transplantation to go forward. Also in the wings is a proposed moratorium on nuclear transplantation as an alternative to full fledged prohibition, but this has yet to take legislative form.

The Brownback bill is an onerous piece of legislation. It would criminalize a form of medical research that is intended to explore the prospects for stem cell therapies, not to create cloned persons; importation of treatments developed in other nations by the use of nuclear transplantation; even the receipt of such therapies abroad. It holds out the prospect of a U.S. diabetic returning from Great Britian—where the production of stem cells by nuclear transplantation is authorized—with a pancrease restored through the agency of nuclear transplantation and finding herself a felon.

The proposed moratorium is not a satisfactory alternative. It raises the specter of interminable discussion and political machinations, perhaps stalling research on nuclear transplantation indefinitely. The proponents of a moratorium argue that ''the widespread creation of clonal embryos would increase the risk that a human clone would be born, and would further open the door to eugenic procedures.'' But nuclear transplantation itself is in no way a ''eugenic procedure''. And any legislative prohibition of reproductive cloning automatically forbids the use of nuclear transplantation for that purpose.

Congress should unite around legislation that would prohibit reproductive cloning, but permit research on nuclear transplantation to go forward under suitable regulations and oversight. The makings of such legislation are already before the Senate, in the form of the Feinstein-Kennedy and Specter-Harkin bills. Legislation fashioned from these bills could offer a forthright, progressive and humane solution to the impasse over nuclear transplantation. The U.S. public deserves no less.

PAUL BERG, PH.D.
J. MICHAEL BISHOP, MD.
ANDREW S. GROVE, PH.D.

*Dr. Berg is Emeritus Professor in the Department of Biochemistry at Stanford University and a Nobel laureate in chemistry. Dr. Bishop is Chancellor at the University of California, San Francisco, and a Nobel laureate in Physiology or Medicine. Dr. Grove is a cofounder and presently chairman of Intel Corp., and a cancer survivor.*

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ASSOCIATION OF AMERICAN UNIVERSITIES,
*Washington, DC, April 25, 2002.*

Hon. DIANNE FEINSTEIN,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR FEINSTEIN: I am writing to let you know that the Association of American Universities has now adopted a position on human cloning, which is attached. The AAU represents 61 leading public and private research universities in the United States and two in Canada.

Our university membership adopted this statement unanimously, and we look forward to working with you to enact legislation consistent with it, which would include the legislation you have introduced on this topic, S. 1758.

Your leadership in the fight to ensure that appropriate restrictions against human reproductive cloning are enacted, while allowing important research on nuclear transplantation to produce stem cells to continue, is most appreciated.

Cordially,

NILS HASSELMO,
*President.*

Enclosure.

AAU STATEMENT ON HUMAN CLONING

The Association of American Universities has a long history of supporting academic and scientific freedom. It also recognizes the importance of conducting research consistent with ethical, legal, and safety requirements.

AAU strongly opposes human reproductive cloning, and supports legislation to ban this practice. The National Academy of Sciences (NAS) has concluded that cloning procedures are currently not safe for humans and that no responsible scientists or physicians are likely to undertake to clone a human. We generally do not support legislation to limit fields of research, but since some organizations have announced an intention to clone humans, we concur with the NAS that a legal ban is more likely to deter any attempt to close a human than would any voluntary system or moratorium. The ban should be reconsidered at five-year intervals, based on current scientific knowledge.

In contrast to human reproductive cloning, AAU continues to support both basic and applied stem cell research. AAU therefore supports nuclear transplantation to produce stem cells, also known as somatic cell nuclear transfer, as nonreproductive cloning, and as therapeutic cloning. AAU concurs with the NAS that nuclear transplantation to produce stem cells has considerable potential for advancing our fundamental knowledge and developing new medical therapies to treat debilitating diseases. Continuing the investigation of stem cells produced by nuclear transplantation is the only way to assure that the value of this nascent technology is realized. Before applications to humans should be considered, we need further study of cells derived from the process of nuclear transplantation, subject to federal safeguards. This research should proceed in parallel with other types of stem cell research, including human embryonic and adult stem cell research.

*Adopted by the AAU Membership on April 23, 2002.*

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PATIENT STORIES FROM CALIFORNIA SUPPORTING SPECTER-FEINSTEIN APPROACH ON CLONING

FROM STEFANIE SONICO IN CATHEDRAL CITY, CA

''I totally and completely support stem cell research in hopes that it will lead to a cure for juvenile diabetes and other such devastating diseases. My son developed juvenile diabetes at 20 months old and is now 16 years old. Without stem cell research, his future is frightening. He does not need to look forward to kidney failure, eye damage, heart disease and stroke, and death 15 years before his time. He needs to believe that the United States of America, a free country, supports research, done by renowned scientists, to find a cure for diabetes. He needs to believe that the United States will not imprison scientists for their knowledge and their skill. I am a Christian that believes that we have an obligation to use our God-given brains and skills to better mankind. The research I support involves a cell in a petri dish that will produce cells to cure a disease like diabetes and that is called therapeutic cloning. My son and the millions of children like him, need the research and the results that will come from therapeutic cloning. Thank you.''

FROM LISBETH DERMODY IN MONTEREY, CA

''My son sustained a spinal cord injury 4 years ago and is now a quadriplegic; my husband developed the first symptoms of Parkinson's Disease 10 years ago and is now deteriorating and experiencing Parkinson's dementia. Stem cell therapy is our best hope that these two brilliant and productive men may expect some improvement in their lives and an alleviation of the psychological and physical suffering they endure every hour of every day. I urge defeat of the Brownback Bill; I urge support of intelligent and humane research that will help my loved ones.''

FROM HELLEN MUELLER, MODESTO, CA

''I am a type 2 diabetic with severe neuropathy. Recently, I had surgery for thyroid cancer and have lost the use of my parathyroids. I look to science particularly the science of cloning for help in treating my ailments. Life has become difficult as I am in pain much of the time. Even normal activities are limited for me. I would like to live the years I have left relatively pain-free, diabetes free too.

My husband has terrible knees. He suffers from degenerative cartilage and arthritis as does my sister. It would be wonderful if they could be helped by SCNT [somatic cell nuclear transplantation]. My husband is still able to work; however he pays a great price in the pain that he suffers. Only by using a large amount of pain killers is he able to get thru a work day. My sister is very incapacitated by her problems.

My sister's husband has had by-pass surgery which resulted in cognitive problems. Stem cell research, cloning, etc seem to be the only hope on the horizon.

In 1990 I lost a husband to ALS [Amyotropic Lateral Sclerosis or Lou Gehrig's disease]. Today I understand scientists are very hopeful that stem cell research will lead to a cure for this killer. He was gone one year after diagnosis. I was left without a husband, my son without a father. What a miracle it would be if this could be avoided for other people.''

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SUMMARY OF HUMAN SUBJECT REGULATIONS AS INCORPORATED INTO SPECTER-FEINSTEIN LEGISLATION

GENERAL RESEARCH PROVISIONS

*Types of Research Covered*

Would cover ALL research involving somatic cell nuclear transplantation, regardless of who performs it or whether it is funded by the government.

*Assurance and Certification Procedure*

The institution conducting the research must: Submit a statement of ''written assurance'' outlining the procedures by which the institution will abide by federal regulations, and certify that the research has been reviewed and approved by an institutional review board (IRB) (see below for definition of IRB).

*Penalities*

HHS may require that the project be terminated or suspended if it finds an institution has failed to comply with federal regulations

HHS may also require the institution to pay a civil penalty of up to $250,000.

DEFINITIONS AND REQUIREMENTS

*Institutional Review Board (IRB)*

Research institutions must establish (or hire outside) Institutional Review Boards to

review and approve research involving somatic cell nuclear transplantation. Each IRB must have at least five members.

In order to approve this research involving human subjects, the IRB must determine that all of the following requirements are satisfied: Risks to subjects are minimized and are reasonable in relation to any anticipated benefits and importance of the knowledge expected; selection of subjects equitable; informed consent is sought and appropriately documented from each subject; when appropriate, the research plan makes adequate provision for monitoring and protecting the data collected, to ensure the safety and privacy of subjects; and when some of the subjects are likely to be vulnerable to undue influence (such as mentally disabled or disadvantaged persons), additional safeguards must be included in the study to protect the rights and welfare of these subjects.

The IRB has the authority to suspend or terminate approval of research that fails to meet these requirements, or that has been associated with unexpected serious harm to subjects.

*Informed Consent*

No investigator may use a human subject in research unless the investigator has obtained the legally effective informed consent of the subject.

An investigator can seek consent only under circumstances that minimize the possibility of undue influence.

No informed consent, whether oral for written, may include any language through which the subject waives his legal rights, or the investigator is released from liability for negligence.

Basic elements of informed consent: The following information must be provided to each subject: A statement that the study involves research, an explanation of the purposes of the research, the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental; a description of any reasonably foreseeable risks or discomforts to the subjects; a description of any benefits to the subject or to others which may reasonably be expected from the research; a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject; a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained; for research involving more than minimal risk, an explanation as to whether the subject will be compensated, and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained; an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject; and a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and that the subject may discontinue participation at any time without penalty or loss of benefits, to which the subject is otherwise entitled.

*Additional Protections for Pregnant Women and Fetuses*

General Restrictions: Research on fetuses and pregnant women cannot be undertaken, unless: Appropriate studies on animals and nonpregnant individuals have been completed; the risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge which cannot be obtained by any other means; any risk is the least possible for achieving the objectives of the research; if the research holds out the prospect of direct benefit to the pregnant woman, the prospect of a direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the woman nor the fetus when risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means, only the mother's consent is needed; if the research holds out the prospect of direct benefit solely to the fetus then the consent of both the pregnant woman and the father must be obtained, except that the father's consent need not be obtained if he is unable to consent because of unavailability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest; individuals engaged in the activity will have no part in (i) any decisions as to the timing, method, and procedures used to terminate the pregnancy, and (ii) determining the viability of the fetus at the termination of the pregnancy; and no inducements, monetary or otherwise, may be offered to terminate pregnancy for purposes of the activity.

## STATEMENTS ON SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 258—URGING SAUDI ARABIA TO DISSOLVE ITS ''MARTYRS'' FUND AND TO REFUSE TO SUPPORT TERRORISM IN ANY WAY

Mr. SMITH of New Hampshire (for himself and Mr. NELSON of Nebraska) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 258

Whereas in the days following the September 11, 2001 attacks on the United States, the United States Government, its allies, and friends quickly agreed that identifying and severing sources of finance to entities which support and fund terrorist activities is critical to combating terrorism and preventing future terrorist acts against United States citizens and interests;

Whereas, since the September 11, 2001 terrorist attacks on the United States, the Kingdom of Saudi Arabia has publicly condemned terrorism in all its shapes and forms;

Whereas on February 5, 2002, the Embassy of Saudi Arabia released a statement—

(1) expressing the commitment of the Kingdom of Saudi Arabia to preventing charitable and humanitarian organizations and the funds they raise from ''being used for any other purpose''; and

(2) confirming ''that it will take every measure possible to prevent the use of these charitable efforts for any unlawful activities, in accordance with international resolutions in this regard'';

Whereas a press release on the Embassy of Saudi Arabia website states that ''the Saudi Committee for Support of Al-Quds (Jerusalem) Intifada has so far distributed about SR 123.75 million {U.S. $33 million}. Minister of the Interior Prince Nayef bin Abdulaziz, who is the Committee's Chairman, expressed his appreciation to the Saudi people for their response in supporting their Palestinian brothers in Israel's blatant aggression against them. Financial aid has been disbursed to the families . . . of 358 martyrs, as well as 8,000 wounded, 1,000 handicapped, and another 102 Palestinians who have received treatment in the Kingdom's hospital.'';

Whereas an August 20, 2001, press release on the Embassy of Saudi Arabia website states that the Saudi Government, in 2000, in support of the Al-Intifada (uprising), ''. . . offered financial support to one thousand families of Palestinian martyrs and those who suffered injuries in the cause'';

Whereas an April 9, 2002 UPI.COM article states that ''Saudi Arabia makes no distinction in compensation to families of suicide bombers and those killed by Israeli military action''; and

Whereas martyrs' funds, or any other source of funding, explicitly designed to fund acts of violence, or to compensate the family members of those individuals who engage in violent activities, are recognized as acts to entice and recruit individuals to undertake suicide bombings and other terrorist acts, and reinforces such violence as a legitimate method to air and to forward political grievances and nationalistic goals: Now, therefore, be it

*Resolved,* That it is the sense of the Senate that the Kingdom of Saudi Arabia should—

(1) immediately dissolve its ''martyrs'' fund;

(2) fulfill its stated commitment to combating violence and terrorism; and

(3) eliminate the funding of terrorism in every way possible.

Mr. SMITH of New Hampshire. Madam President, the legislation I am introducing today addresses an important and serious subject in the ongoing war on terrorism. The attention of the world has been focused on the conflict in the Middle East between Israelis and Palestinians, and on the devastation wrought by suicide bombers. We are not focusing enough attention, however, on external factors which have significantly contributed to the escalated violence in the Middle East, and on how we can use our vast economic and diplomatic powers to effect changes, to end subsidies to terrorists, and to bring about peace in the Middle East.

A good first step would be to cut off U.S. indirect aid to Yassir Arafat and the Palestinian Authority as a sign of our displeasure with their jihad, and with their wanton destruction on innocent Israeli civilians. Our aid legitimizes their terrorist activity and has not contributed to a lessening of the violence, but rather, the opposite. It sends very conflicted signals when we are fighting a global war on terrorism in the wake of 9/11, yet subsidizing Arafat, a known terrorist.

We must also cut off aid because our limited taxdollars for foreign aid should only be directed towards the desperately needy. Arafat is known to have stashed away billions of dollars he earns from taxing Palestinians working in other Arab countries, and none of that vast personal wealth is being used to benefit his Palestinian constituency. I believe Arafat prefers that they live in deplorable conditions because misery contributes to strife, if Palestinians are deprived and impoverished, it is easier to entice then to throw stones, or to sacrifice themselves by becoming human bombs.

Another important step we could take, which is the subject of my bill today, is to ask our allies in the Middle East to take meaningful measures to show that they are in solidarity with us in the war against terrorism.

Specifically, I am asking the Kingdom of Saudi Arabia to dissolve its martyrs fund. As President Bush said, after the terrorist attacks of last September 11, ''either you are with us, or you are with the terrorists.'' Saudi Arabia needs to demonstrate that it is with us.

Just a little over a decade ago, we deployed thousands of U.S. soldiers in the Gulf, to liberate Kuwait from Saddam Hussein's army, and to prevent Saddam Hussein from next invading the Saudi Kingdom, or any of our other allies in the region. The conflict was not protracted, but it was costly, and we lost nearly three hundred American soldiers in that war. We stood side by side with the Saudis in our determination to stop Iraqi aggression, to preserve the independence of Kuwait, and to protect ours and our allies' critical energy interests. Today, our aircraft transit the No Fly Zone from bases in Saudi Arabia, again in the mutual interest of keeping the Iraqi military in check and in preserving sovereign governments in the region.

Newspaper reports claim that the Saudi ''martyrs'' fund is $50 million, other news sources claim it may be as high as $400 million. Writer Stephen Schwartz, April 8 Weekly Standard, asserts that the $400 million pledge last year for support of ''martyrs'' families was posted on the Saudi Embassy website. Schwartz figures that at $5300 per ''martyr,'' that works out to roughly 75,000 martyrs. The stated purpose of the fund is said to be for helping the widows and orphans of the martyrs, the martyrs whom we define as fanatical suicide bombers who have been wreaking havoc on Israeli citizens. This may sound innocent and humanitarian on the surface based on the Saudi concept of a martyr, but it is deceptive. In the April 1st issue of the Weekly Standard, an article by AEI fellow Reuel Marc Gerecht, a consistently excellent analyst, reports that: ''In near perfect harmony, the Arab world's rulers blamed Israel for the Palestinian suicide bombers, who are universally referred to in the Arab press as 'shuhada', martyrs who die in battle against infidels.''

The reality is that this fund for ''shuhadas'' will entice and solicit more suicide bombers, giving them the assurance that their families will be provided for in their absence. Would we set up a fund to reward the families of domestic terrorists in this country who commit unlawful acts? Of course not! Yet the Saudis are pooling resources to reward, and indeed, to instigate these killings. There is a well-known expression in conservative circles, if you want more of something, subsidize it. Is there any doubt in anyone's mind that the martyrs' fund won't lead to the creation of more martyrs, and to the deaths of many more innocent civilians, not just in Israel, but in this country? Does the martyrs' fund exclude perpetrators of acts by these fanatics against Americans, or French or British, or is it only reserved for those who kill Israelis? These funds are seed money for terrorism, and it will reap a harvest of destruction, aimed at both Israel and at the United States.

An Associated Press story from Cairo, Egypt, mentions that the Saudi Ambassador to Britain, a renowned poet, praised Palestinian suicide bombers in a London-based pan-Arab daily publication: May God be the witness that you are martyrs, You died to honor God's word. You committed suicide? We committed suicide by living like the dead.'' The Saudi Ambassador to London, apparently referring to Arab leaders who looked to the United States for help in ending the conflict, said, ''We complained to the idols of a White House whose heart is filled with darkness.'' This Saudi Ambassador and poet refers to the 18 year old female suicide bomber, Ayat Akhras, who detonated explosives she had fastened to her body at a Jerusalem supermarket, killing 2 Israelis and wounding another 25, ''Tell Ayat, the bride of loftiness . . . She embraced death with a smile while the leaders are running away from death. Doors of heaven are opened for her,'' he writes. In addition, the Saudis have been running a telethon to raise additional funds, but the Saudi Embassy in Washington is stating that the money will only be used for Palestinians ''victimized by Israeli terror and violence.''

The Saudis must also share in the blame for the catastrophic events of September 11th. Fifteen of the nineteen hijackers were Saudis. Bin Laden himself was a Saudi national, and contrary to the belief of some that violence is born of poverty or despair, bin Laden's family is notoriously wealthy. The Saudis eventually made bin Laden persona non grata, but they must acknowledge that these hijackers sprang from their society. The Saudis have been funding radical schools which are the breeding grounds for the fanaticism of bin Laden and his ilk, and for anti-American, and anti-Iraeli foment. In the international press, Saudi leaders were claiming that we had no proof that any of the hijackers were Saudi nationals!

The Saudi Crown Prince recently presented a peace plan for the Middle East. Some suggested that it was a public relations diversion, intended to distract attention from the Saudi Government's responsibility for the events of 9/11. I would like to believe that that is not true—and that the Saudis also hope that Israelis and Palestinians can learn to live in peace, but the Saudi Government would have more credibility if, in conjunction with devising and offering a peace plan, it would also reconsider its generous funding of radical religious schools and charities, and would dissolve immediately its martyrs' fund. Those acts would do far more to assure Americans that the Saudis are truly on our side in the war on terrorism, and promoting ways to reduce violence, rather than straddling the fence and talking out of both sides of their mouth.

We need solid allies in the war on terrorism. We do not need friends who say one thing and do another. We need deeds, not words. I urge the Kingdom of Saudi Arabia to demonstrate its stated public commitment to fighting terrorism, and to stop subsidizing terrorists and would-be terrorists through its martyrs' fund. This is not an act of humanitarianism on the part of the Saudis, and it is not charity; it is aiding and abetting terror and should be recognized as such.

## SENATE RESOLUTION 259—DESIGNATING MAY 2002, AS 'OLDER AMERICANS MONTH'

Mr. CRAIG submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 259

Whereas older Americans are the foundation of our Nation;

Whereas the freedom and security our Nation now enjoys can be attributed to the service, hard work, and sacrifices of older Americans;

Whereas older Americans continue making significant contributions to our communities, workplaces, and homes by giving freely of themselves and by sharing their wisdom and experience through civic leadership and mentoring;

Whereas the older Americans of tomorrow will be more socially, ethnically, and economically diverse than any past generation, which will impact upon our Nation's ideas of work, retirement and leisure, alter our housing and living arrangements, challenge our health care systems, and reshape our economy;

Whereas the opportunities and challenges that await our Nation require our Nation require our Nation to continue to commit to the goal of ensuring that older Americans enjoy active, productive, and healthy lives, and do so independently, safely, and with dignity; and

Whereas it is appropriate for our Nation to continue the tradition of designating the month of May as a time to celebrate the contributions of older Americans and to rededicate our efforts to respect and better serve older Americans: Now, therefore, be it

*Resolved,* That the Senate—

(1) designates May 2002, as ''Older Americans Month'';

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities that promote acknowledgment, gratitude, and respect for older Americans.

Mr. CRAIG. Mr. President, I rise today to submit a resolution honoring May as Older Americans' Month.

I am here today to celebrate May as Older Americans' Month. For thirty nine years May has been the official month during which we pay tribute to the contributions of our forty four million older Americans. It is during this month that we as a Nation recognize older Americans for their service, hard

work and sacrifice that helped assure us the freedom and security we now enjoy.

Not only should we take this time to show our appreciation and respect for America's seniors, but also to acknowledge that today's and tomorrow's seniors will continue making significant contributions to our communities through their wisdom and experience; in the workplace, in civic leadership and in our homes.

We must also recognize that 77 million baby boomers will soon be retiring and must begin to address some of the challenges this influx will bring. Social Security and Medicare modernization, including the option for prescription drugs, must be addressed before this generation retires.

As the Ranking Member of the Senate Special Committee on Aging, I look forward to the opportunities and challenges that await us as we continue our commitment to the goal of ensuring that senior citizens enjoy active, productive and healthy lives, and do so independently, safely and with dignity.

In the tradition of Older Americans' Month, I am submitting a resolution in the Senate calling on the people of the United States to observe the month of May 2002 as ''Older Americans Month'' and to encourage all Americans to promote awareness through ceremonies, programs, and other activities that promote acknowledgment, gratitude, and respect for American seniors.

I ask all of you to celebrate with me Older Americans' Month this May.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3383. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table.

SA 3384. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3009, supra; which was ordered to lie on the table.

SA 3385. Mr. REID (for Mr. BIDEN) proposed an amendment to the bill H.R. 1646, to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes.

SA 3386. Mr. DASCHLE proposed an amendment to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

SA 3387. Mr. DORGAN (for himself and Mr. CRAIG) proposed an amendment to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) supra.

## TEXT OF AMENDMENTS

**SA 3383.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, insert the following:

**SEC. ___. CONDITIONS ON ANY SUSPENSION OF IMMIGRATION PROCESSING OF ALIEN ORPHANS.**

(a) REQUIREMENTS OF THE DEPARTMENT OF JUSTICE.—

(1) REPORT TO CONGRESS.—Neither the Commissioner nor any other official of the Department of Justice shall suspend, with respect to a country, the processing of petitions for classification of natives of that country as alien orphans, unless the Attorney General first submits a report to each House of Congress, in accordance with subsection (c), containing the following:

(A) CERTIFICATION REQUIRED.—A certification that the Commissioner or other official of the Department of Justice, as appropriate, has determined, based upon clear and convincing evidence, that one or more of the following circumstances is applicable with respect to that country:

(i) INADEQUATE INS PROCESSING SYSTEM.—The system of the Immigration and Naturalization Service in that country for the processing of petitions for the classification of natives of that country as alien orphans is wholly inadequate, and as a result the Service is unable to make the determinations described in section 101(b)(1) (F) or (G) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1) (F) or (G).

(ii) SENDING COUNTRY ADOPTION SYSTEM COMPROMISED.—The system utilized by the sending country for the arrangement of international adoptions of alien orphans who are natives of that country has been compromised to the extent that processing cases according to the requirements of the Immigration and Nationality Act is no longer possible.

(iii) FAILURE TO OBTAIN BIRTH PARENT CONSENT.—In the majority of the cases processed in the period beginning 90 days before the date of transmittal of the certification and ending on such date, the consent of a birth parent to termination of parental rights or to the adoption was not obtained.

(iv) FRAUD, DURESS, OR IMPROPER INDUCEMENT.—In the majority of the cases processed in the period beginning 90 days before the date of transmittal of the certification and ending on such date, the consent of a birth parent to the termination of parental rights or the adoption was obtained as a result of fraud, duress, or improper inducement.

(B) PLAN.—A detailed plan that would remedy the circumstance or circumstances described in subparagraph (A) justifying the suspension, including efforts by the Department of Justice to communicate with United States citizen family members who might be affected by the impending suspension.

(C) ESTIMATE OF TIME TO REMEDY CIRCUMSTANCES.—A good faith estimate of the time needed to remedy the circumstance or circumstances described in subparagraph (A) justifying the suspension.

(2) LIMITATION.—In no case may a suspension last longer than one year.

(3) TRANSITION PROVISION.—Not later than 30 days after the date of enactment of this Act, the Commissioner shall certify to Congress that any suspension in effect on the date of the transmittal of that certification is justified by one or more of the circumstances described in paragraph (1)(A).

(b) REQUIREMENTS OF THE DEPARTMENT OF STATE.—Neither the Secretary of State nor any other official of the Department of State shall urge a foreign government to suspend the processing of international adoptions by United States citizens unless the Secretary of State provides notice in writing to each House of Congress, in accordance with subsection (c), of his intention to take such action.

(c) SUBMISSION OF REPORTS AND NOTICES TO CONGRESS.—The submission of a report under subsection (a) or a notice under subsection (b) is satisfied if the report or notice, as appropriate, is submitted—

(1) in the case of the Senate, not less than 30 session days (excluding days in which the Senate stands in recess) in advance of the action; and

(2) in the case of the House of Representatives, not less than 30 legislative days in advance of the action.

(d) DEFINITIONS.—In this section:

(1) ALIEN ORPHAN.—The term ''alien orphan'' means an alien child described in section 101(b)(1) (F) or (G) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1) (F) or (G)).

(2) CLEAR AND CONVINCING EVIDENCE.—The term ''clear and convincing evidence'' means specific, well documented, and substantiated proof that the underlying assertion is true.

(3) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of Immigration and Naturalization, subject to the authority, supervision, and control of the Attorney General.

(4) SENDING COUNTRY.—The term ''sending country'' means the country with legal authority to process the adoption of the child in question.

(5) SUSPENSION.—The term ''suspension'' means, with respect to a country, the decision by the Commissioner to suspend the processing of petitions for classification of alien orphans who are natives of that country.

**SA 3384.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following new section:

**SEC. ___. TRADE ADJUSTMENT ASSISTANCE FOR MARITIME EMPLOYEES.**

Not later than 6 months after the date of enactment of the Trade Adjustment Assistance for Workers, Farmers, Fishermen, Communities, and Firms Act of 2002, the Secretary of Labor shall establish a program to provide health insurance benefits under title VI of that Act, and program benefits under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) to longshoremen, harbor and port pilots, port personnel, stevedores, crane operators, warehouse personnel, and other maritime workers who have become totally or partially separated, or are threatened to become totally or partially separated, as a result of the decline in the importation of steel products into the United States caused by the safeguard measures taken by the United States on March 5, 2002, under chapter 1 of title II of such Act (19 U.S.C. 2251 et seq.).

**SA 3385.** Mr. REID (for Mr. BIDEN) proposed an amendment to the bill H.R. 1646, to authorize appropriations for the Department of State for fiscal years 2002 and 2003, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Security Assistance Act of 2001''.

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

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
TITLE I—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS
Sec. 101. Verification and Compliance Bureau personnel.
Sec. 102. Key Verification Assets Fund.
Sec. 103. Revised verification and compliance reporting requirements.
TITLE II—MILITARY AND RELATED ASSISTANCE
Subtitle A—Foreign Military Sales and Financing Authorities
Sec. 201. Authorization of appropriations.
Sec. 202. Relationship of foreign military sales to United States nonproliferation interests.
Sec. 203. Special Defense Acquisition Fund for nonproliferation and counter-narcotics purposes.
Sec. 204. Representation allowances.
Sec. 205. Arms Export Control Act prohibition on transactions with countries that have repeatedly provided support for acts of international terrorism.
Sec. 206. Congressional notification of small arms and light weapons license approvals; annual reports.
Subtitle B—International Military Education and Training
Sec. 211. Authorization of appropriations.
Sec. 212. Annual human rights reports.
Subtitle C—Security Assistance for Select Countries
Sec. 221. Security assistance for Israel and Egypt.
Sec. 222. Security assistance for Greece and Turkey.
Sec. 223. Security assistance for certain other countries.
Subtitle D—Excess Defense Article and Drawdown Authorities
Sec. 231. Excess defense articles for certain countries.
Sec. 232. Annual briefing on projected availability of excess defense articles.
Sec. 233. Expanded drawdown authority.
Sec. 234. Duration of security assistance leases.
Subtitle E—Other Political-Military Assistance
Sec. 241. Destruction of surplus weapons stockpiles.
Sec. 242. Identification of funds for demining programs.
Subtitle F—Antiterrorism Assistance
Sec. 251. Authorization of appropriations.
Sec. 252. Specific program objectives.
Subtitle G—Other Matters
Sec. 261. Revised military assistance reporting requirements.
TITLE III—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE
Subtitle A—General Provisions
Sec. 301. Authorization of appropriations.
Sec. 302. Joint State Department-Defense Department programs.
Sec. 303. Nonproliferation technology acquisition programs for friendly foreign countries.
Sec. 304. International nonproliferation and export control training.
Sec. 305. Relocation of scientists.
Sec. 306. Audits of the International Science and Technology Centers Program.
Sec. 307. International Atomic Energy Agency regular budget assessments.
Sec. 308. Revised nonproliferation reporting requirements.
Subtitle B—Russian Federation Debt Reduction for Nonproliferation
Sec. 311. Short title.
Sec. 312. Findings and purposes.
Sec. 313. Definitions.
Sec. 314. Establishment of the Russian Nonproliferation Investment Facility.
Sec. 315. Reduction of the Russian Federation's Soviet-era debt owed to the United States, generally.
Sec. 316. Reduction of Soviet-era debt owed to the United States as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954.
Sec. 317. Authority to engage in debt-for-nonproliferation exchanges and debt buybacks.
Sec. 318. Russian Nonproliferation Investment Agreement.
Sec. 319. Structure of debt-for-nonproliferation arrangements.
Sec. 320. Independent media and the rule of law.
Sec. 321. Nonproliferation requirement.
Sec. 322. Discussion of Russian Federation debt reduction for nonproliferation with other creditor states.
Sec. 323. Implementation of United States policy.
Sec. 324. Consultations with Congress.
Sec. 325. Annual report to Congress.
Subtitle C—Nonproliferation Assistance Coordination
Sec. 331. Short title.
Sec. 332. Findings.
Sec. 333. Independent states of the former Soviet Union defined.
Sec. 334. Establishment of Committee on Nonproliferation Assistance to the Independent States of the Former Soviet Union.
Sec. 335. Duties of the Committee.
Sec. 336. Administrative support.
Sec. 337. Confidentiality of information.
Sec. 338. Statutory construction.
TITLE IV—EXPEDITING THE MUNITIONS LICENSING PROCESS
Sec. 401. License officer staffing.
Sec. 402. Funding for database automation.
Sec. 403. Information management priorities.
Sec. 404. Improvements to the Automated Export System.
Sec. 405. Adjustment of threshold amounts for congressional review purposes.
Sec. 406. Periodic notification of pending applications for export licenses.
TITLE V—NATIONAL SECURITY ASSISTANCE STRATEGY
Sec. 501. Establishment of the Strategy.
Sec. 502. Security assistance surveys.
TITLE VI—MISCELLANEOUS PROVISIONS
Sec. 601. Nuclear and missile nonproliferation in South Asia.
Sec. 602. Real-time public availability of raw seismological data.
Sec. 603. Detailing United States governmental personnel to international arms control and nonproliferation organizations.
Sec. 604. Diplomatic presence overseas.
Sec. 605. Protection against agricultural bioterrorism.
Sec. 606. Compliance with the Chemical Weapons Convention.
TITLE VII—AUTHORITY TO TRANSFER NAVAL VESSELS
Sec. 701. Authority to transfer naval vessels to certain foreign countries.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ''appropriate committees of Congress'' means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) DEFENSE ARTICLE.—The term ''defense article'' has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note).

(3) DEFENSE SERVICE.—The term ''defense service'' has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note).

(4) EXCESS DEFENSE ARTICLE.—The term ''excess defense article'' has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

(5) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of State.

## TITLE I—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

**SEC. 101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.**

(a) IN GENERAL.—Of the total amounts made available to the Department of State for fiscal years 2002 and 2003, not less than $14,000,000 each such fiscal year shall be provided to the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund.

(b) ADDITIONAL PERSONNEL.—In addition to the amounts made available under subsection (a), not less than $1,800,000 shall be made available from the Department's American Salaries Account, for the purpose of hiring new personnel to carry out the Bureau's responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

**SEC. 102. KEY VERIFICATION ASSETS FUND.**

Of the total amounts made available to the Department of State for fiscal years 2002 and 2003, not less than $7,000,000 shall be made available within the Verification and Compliance Bureau's account for each such fiscal year to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

**SEC. 103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.**

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended by striking ''January 31'' and inserting ''April 15''.

## TITLE II—MILITARY AND RELATED ASSISTANCE

### Subtitle A—Foreign Military Sales and Financing Authorities

**SEC. 201. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section $3,674,000,000 for fiscal year 2002 and $4,267,000,000 for fiscal year 2003.

**SEC. 202. RELATIONSHIP OF FOREIGN MILITARY SALES TO UNITED STATES NONPROLIFERATION INTERESTS.**

(a) AUTHORIZED PURPOSES.—The first sentence of section 4 of the Arms Export Control Act (22 U.S.C. 2754) is amended by inserting ''for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons,'' after ''self-defense,''.

(b) DEFINITION OF ''WEAPONS OF MASS DESTRUCTION''.—Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) by striking ''and'' at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting ''; and''; and

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

''(10) 'weapons of mass destruction' has the meaning provided by section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104–201; 110 Stat. 2717; 50 U.S.C. 2302(1)).''.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should ensure, in circumstances where the sale of defense articles or defense services to a friendly country would serve the nonproliferation interests of the United States, but that country cannot afford to purchase such defense articles or defense services, that grant assistance is provided pursuant to section 23 of the Arms Export Control Act to facilitate such acquisition.

**SEC. 203. SPECIAL DEFENSE ACQUISITION FUND FOR NONPROLIFERATION AND COUNTER-NARCOTICS PURPOSES.**

(a) ESTABLISHMENT.—Notwithstanding any other provision of law, the President shall direct that the Special Defense Acquisition Fund be established pursuant to section 51 of the Arms Export Control Act (22 U.S.C. 2795).

(b) USE OF THE SPECIAL DEFENSE ACQUISITION FUND.—Section 51(a)(4) of the Arms Export Control Act (22 U.S.C. 2795(a)(4)) is amended by striking ''for use for'' and all that follows through ''equipment'' and inserting the following: ''for use for—

''(A) narcotics control purposes and are appropriate to the needs of recipient countries, such as small boats, planes (including helicopters), and communications equipment; and

''(B) nonproliferation and export control purposes, such as nuclear, radiological, chemical, and biological warfare materials detection equipment.''.

(c) LIMITATION.—Section 51(c) of the Arms Export Control Act (22 U.S.C. 2795(c)) is amended—

(1) in paragraph (1), by striking all after ''exceed'' through the period and inserting ''$200,000,000.''; and

(2) in paragraph (2), by striking ''provided'' and all that follows through ''Acts'' and inserting ''specifically authorized by law in advance''.

(d) AUTHORIZATION.—For fiscal year 2003, not more than $20,000,000 may be made available for obligation for the procurement of items pursuant to section 51 of the Arms Export Control Act.

**SEC. 204. REPRESENTATION ALLOWANCES.**

Section 43(c) of the Arms Export Control Act (22 U.S.C. 2792(c)) is amended by striking ''$72,500'' and inserting ''$86,500''.

**SEC. 205. ARMS EXPORT CONTROL ACT PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT HAVE REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.**

The second sentence of section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) is amended—

(1) by inserting ''or chemical, biological, or radiological agents'' after ''nuclear explosive devices''; and

(2) by inserting ''or chemical, biological, or radiological agents'' after ''nuclear material''.

**SEC. 206. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; ANNUAL REPORTS.**

(a) CONGRESSIONAL NOTIFICATION OF EXPORT LICENSE APPROVALS.—Section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)) is amended by inserting ''(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, $1,000,000 or more)'' after ''$50,000,000 or more''.

(b) REPORT.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit an unclassified report to the appropriate congressional committees on the numbers, range, and findings of end-use monitoring of United States transfers in small arms and light weapons.

(c) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting before the period at the end the following: '', including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or related equipment, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report''.

(d) ANNUAL REPORT ON ARMS BROKERING.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of State shall submit a report to the appropriate committees of Congress on activities of registered arms brokers, including violations of the Arms Export Control Act.

(e) ANNUAL REPORT ON INVESTIGATIONS OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.—Not later than six months after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit a report to the appropriate committees of Congress on investigations and other efforts undertaken by the Bureau of Alcohol, Tobacco and Firearms (including cooperation with other agencies) to stop United States-source weapons from being used in terrorist acts and international crime.

## Subtitle B—International Military Education and Training

**SEC. 211. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the President $75,000,000 for fiscal year 2002 and $85,290,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).

**SEC. 212. ANNUAL HUMAN RIGHTS REPORTS.**

(a) WITH RESPECT TO PROHIBITIONS ON NONMILITARY ASSISTANCE.—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following:

''(7) to the extent practicable, for any violation of internationally recognized human rights reported under this subsection, whether any foreign military or defense ministry civilian participant in education and training activities under chapter 5 of part II of this Act was involved;''.

(b) RECORDS REGARDING FOREIGN PARTICIPANTS.—Section 548 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347e) is amended—

(1) by striking ''In'' and inserting ''(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In''; and

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

''(b) ANNUAL LIST OF FOREIGN PERSONNEL.—For the purposes of preparing the report required pursuant to section 116(d), the Secretary of State may annually request the Secretary of Defense to provide information contained in the database with respect to a list submitted to the Secretary of Defense by the Secretary of State, containing the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State's submission.

''(c) UPDATING OF DATABASE.—If the Secretary of State determines and reports to Congress under section 116(d) that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.''.

## Subtitle C—Security Assistance for Select Countries

**SEC. 221. SECURITY ASSISTANCE FOR ISRAEL AND EGYPT.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) ISRAEL.—Section 513 of the Security Assistance Act of 2000 (Public Law 106–280) is amended by striking ''2001 and 2002'' each place that it appears and inserting ''2002 and 2003''.

(2) EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106–280) is amended by striking ''2001 and 2002'' each place that it appears and inserting ''2002 and 2003''.

(b) BALLISTIC MISSILE DEFENSE.—Of the amounts made available for fiscal years 2002 and 2003 under section 513 of the Security Assistance Act of 2000 (Public Law 106–280), as amended by subsection (a), $100,000,000 may be used each such fiscal year for the establishment, in cooperation with a United States company, of a production line for the Arrow missile in the United States.

**SEC. 222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.**

(a) IN GENERAL.—Of the amounts made available for the fiscal years 2002 and 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

(1) $1,000,000 for fiscal year 2002 and $1,170,000 for fiscal year 2003 are authorized to be available for Greece; and

(2) $2,500,000 for fiscal year 2002 and $2,920,000 for fiscal year 2003 are authorized to be available for Turkey.

(b) USE FOR PROFESSIONAL MILITARY EDUCATION.—Of the amounts available under paragraphs (1) and (2) of subsection (a) for each of fiscal years 2002 and 2003, $500,000 of each such amount should be available for purposes of professional military education.

(c) USE FOR JOINT TRAINING.—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

(d) REPEAL.—Section 512 of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 856) is repealed.

**SEC. 223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.**

(a) FMF FOR CERTAIN OTHER COUNTRIES.—Of the amounts made available for the fiscal years 2002 and 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries for the fiscal years specified:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $21,000,000 for fiscal year 2002 and $24,400,000 for fiscal year 2003.

(2) BULGARIA.—For Bulgaria, $10,000,000 for fiscal year 2002 and $11,620,000 for fiscal year 2003.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $12,000,000 for fiscal year 2002 and $14,000,000 for fiscal year 2003.

(4) GEORGIA.—For Georgia, $5,650,000 for fiscal year 2002 and $6,560,000 for fiscal year 2003.

(5) HUNGARY.—For Hungary, $12,000,000 for fiscal year 2002 and $14,000,000 for fiscal year 2003.

(6) JORDAN.—For Jordan, $75,000,000 for fiscal year 2002 and $87,300,000 for fiscal year 2003.

(7) MALTA.—For Malta, $1,000,000 for fiscal year 2002 and $1,170,000 for fiscal year 2003.

(8) THE PHILIPPINES.—For the Philippines, $19,000,000 for fiscal year 2002 and $22,100,000 for fiscal year 2003.

(9) POLAND.—For Poland, $15,000,000 for fiscal year 2002 and $17,500,000 for fiscal year 2003.

(10) ROMANIA.—For Romania, $11,500,000 for fiscal year 2002 and $13,400,000 for fiscal year 2003.

(11) SLOVAKIA.— For Slovakia, $8,500,000 for fiscal year 2002 and $9,900,000 for fiscal year 2003.

(12) SLOVENIA.—For Slovenia, $4,500,000 for fiscal year 2002 and $5,250,000 for fiscal year 2003.

(b) IMET.—Of the amounts made available for the fiscal years 2002 and 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries for the fiscal years specified:

(1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, $3,000,000 for fiscal year 2002 and $3,420,000 for fiscal year 2003.

(2) BULGARIA.—For Bulgaria, $1,200,000 for fiscal year 2002 and $1,370,000 for fiscal year 2003.

(3) THE CZECH REPUBLIC.—For the Czech Republic, $1,800,000 for fiscal year 2002 and $2,050,000 for fiscal year 2003.

(4) GEORGIA.—For Georgia, $850,000 for fiscal year 2002 and $970,000 for fiscal year 2003.

(5) HUNGARY.—For Hungary, $1,800,000 for fiscal year 2002 and $2,050,000 for fiscal year 2003.

(6) JORDAN.—For Jordan, $1,800,000 for fiscal year 2002 and $2,050,000 for fiscal year 2003.

(7) MALTA.—For Malta, $300,000 for fiscal year 2002 and $350,000 for fiscal year 2003.

(8) THE PHILIPPINES.—For the Philippines, $1,710,000 for fiscal year 2002 and $2,000,000 for fiscal year 2003.

(9) POLAND.—For Poland, $1,900,000 for fiscal year 2002 and $2,160,000 for fiscal year 2003.

(10) ROMANIA.—For Romania, $1,400,000 for fiscal year 2002 and $1,600,000 for fiscal year 2003.

(11) SLOVAKIA.—For Slovakia, $850,000 for fiscal year 2002 and $970,000 for fiscal year 2003.

(12) SLOVENIA.—For Slovenia, $800,000 for fiscal year 2002 and $910,000 for fiscal year 2003.

(c) WRITTEN EXPLANATION OF PRESIDENTIAL DETERMINATIONS.—In the event that the President determines not to provide, or determines to exceed, the funding allocated for any country specified in this section by an amount that is more than five percent of that specified in this section, the President shall submit to the appropriate committees of Congress within 15 days of such determination a written explanation of the reasons therefor.

(d) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

### Subtitle D—Excess Defense Article and Drawdown Authorities

**SEC. 231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.**

(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e), during each of the fiscal years 2002 and 2003, funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) SENSE OF CONGRESS.—The authority provided under this section should be utilized only for those countries demonstrating a genuine commitment to democracy and human rights.

**SEC. 232. ANNUAL BRIEFING ON PROJECTED AVAILABILITY OF EXCESS DEFENSE ARTICLES.**

Not later than 90 days prior to the commencement of each fiscal year, the Department of Defense shall brief the Department of State and the appropriate committees of Congress regarding the expected availability of excess defense articles during the next fiscal year, for the purpose of enabling the Department of State to factor such availability into annual security assistance plans.

**SEC. 233. EXPANDED DRAWDOWN AUTHORITY.**

Section 506(c) of the Foreign Assistance Act of 1961 (22 U.S.C. 2318(c)) is amended to read as follows:

''(c) For the purposes of any provision of law that authorizes the drawdown of defense or other articles or commodities, or defense or other services from an agency of the United States Government, such drawdown may include the supply of commercial transportation and related services and defense or other articles or commodities, or defense or other services, that are acquired by contract for the purposes of the drawdown in question, if the cost to acquire such items or services is less than the cost to the United States Government of providing such items or services from existing agency assets.''.

**SEC. 234. DURATION OF SECURITY ASSISTANCE LEASES.**

Section 61 of the Arms Export Control Act (22 U.S.C. 2796) is amended—

(1) in subsection (b), by striking ''of not to exceed five years'' and inserting ''that may not exceed 5 years, plus a period of time specified in the lease as may be necessary for major refurbishment work to be performed prior to final delivery by the lessor of the defense articles,''; and

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

''(d) In this section, the term 'major refurbishment work' means refurbishment work performed over a period estimated to be 6 months or more.''.

### Subtitle E—Other Political-Military Assistance

**SEC. 241. DESTRUCTION OF SURPLUS WEAPONS STOCKPILES.**

Of the funds authorized to be appropriated to the President for fiscal years 2002 and 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), relating to development assistance, up to $10,000,000 is authorized to be made available each such fiscal year for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

**SEC. 242. IDENTIFICATION OF FUNDS FOR DEMINING PROGRAMS.**

Of the funds authorized to be appropriated under section 201 for nonproliferation, antiterrorism, demining, and related programs, $40,000,000 is authorized to be appropriated for fiscal year 2002 for demining programs and program support costs.

### Subtitle F—Antiterrorism Assistance

**SEC. 251. AUTHORIZATION OF APPROPRIATIONS.**

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking ''$72,000,000 for fiscal year 2001 and $73,000,000 for fiscal year 2002'' and inserting ''$73,000,000 for fiscal year 2002 and $75,000,000 for fiscal year 2003''.

**SEC. 252. SPECIFIC PROGRAM OBJECTIVES.**

Of the amounts authorized to be appropriated to the President pursuant to section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)), $2,000,000 may be made available for the provision of the Pisces system to the governments of the Philippines and Pakistan.

### Subtitle G—Other Matters

**SEC. 261. REVISED MILITARY ASSISTANCE REPORTING REQUIREMENTS.**

(a) ANNUAL FOREIGN MILITARY TRAINING REPORTS.—Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416) does not apply to any NATO or major non-NATO ally unless the chairman or ranking member of one of the appropriate committees of Congress has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 45 calendar days prior to the date on which the report is required to be transmitted.

(b) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) QUARTERLY REPORTS ON GOVERNMENT-TO-GOVERNMENT ARMS EXPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (10), (11), and (12), respectively.

## TITLE III—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

### Subtitle A—General Provisions

**SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb–4) is amended—

(1) in subsection (a), by striking all after ''chapter'' and inserting ''$142,000,000 for fiscal year 2002 and $152,000,000 for fiscal year 2003.''; and

(2) in subsection (c), by striking ''2001'' each place that it appears and inserting ''2002''.

(b) SUBALLOCATIONS.—Of the amounts authorized to be appropriated to the President for fiscal years 2002 and 2003 under chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.)—

(1) not less than $2,000,000 shall be made available each such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 304 of this Act; and

(2) $65,000,000 for fiscal year 2002 and $65,000,000 for fiscal year 2003 are authorized to be appropriated for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106–280) is repealed.

**SEC. 302. JOINT STATE DEPARTMENT-DEFENSE DEPARTMENT PROGRAMS.**

Of the amounts authorized to be appropriated to the President for fiscal years 2002 and 2003 under chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb

et seq.), the Secretary is authorized to make available not more than $1,000,000 for international counterproliferation programs administered by the Department of Defense.

**SEC. 303. NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.**

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amounts authorized to be appropriated for fiscal years 2002 and 2003 under chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to expend not more than—

(1) $5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) $10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

(b) TRAINING REQUIREMENT.—The Secretary shall not provide any equipment or technology pursuant to this section without having first developed and budgeted for a multiyear training plan to assist foreign personnel in the utilization of those items.

(c) PROCUREMENT AUTHORITIES.—For fiscal year 2003, the Secretary shall utilize, to the maximum extent practicable, the Special Defense Acquisition Fund for procurements authorized under this section.

**SEC. 304. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.**

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—

(1) by redesignating sections 584 and 585 as sections 585 and 586, respectively; and

(2) by inserting after section 583 the following:

**"SEC. 584. INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING.**

''(a) GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this chapter (but whenever feasible on a reimbursable basis), education and training to foreign personnel for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

''(b) ADMINISTRATION OF COURSES.—The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs, but may utilize other departments and agencies, as appropriate, to recommend personnel for the education and training, and to administer specific courses of instruction.

''(c) PURPOSES.—Education and training activities conducted under this section shall be—

''(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

''(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

''(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

''(d) PRIORITY TO CERTAIN COUNTRIES.—In selecting military and foreign governmental personnel for education and training pursuant to this section, priority shall be given to personnel from countries for which the Secretary of State has given priority under section 583(b).''.

**SEC. 305. RELOCATION OF SCIENTISTS.**

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102–509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended by striking subsection (d) and inserting the following:

''(d) DURATION OF AUTHORITY.—The authority under subsection (a) shall be in effect during the following periods:

''(1) The period beginning on the date of the enactment of this Act and ending 4 years after such date.

''(2) The period beginning on the date of the enactment of the Security Assistance Act of 2001 and ending 4 years after such date.''.

(b) LIMITATION ON NUMBER OF SCIENTISTS ELIGIBLE FOR VISAS UNDER AUTHORITY.—Subsection (c) of such section is amended by striking ''750'' and inserting ''950''.

(c) LIMITATION ON ELIGIBILITY.—Subsection (a) of such section is amended by adding at the end the following new sentence: ''A scientist is not eligible for designation under this subsection if the scientist has previously been granted the status of an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))).''.

(d) CONSULTATION REQUIREMENT.—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

**SEC. 306. AUDITS OF THE INTERNATIONAL SCIENCE AND TECHNOLOGY CENTERS PROGRAM.**

Consistent with section 303(b) of the Security Assistance Act of 2000 (Public Law 106–280; 114 Stat. 853), not later than 60 days after the date of enactment of this Act, the Secretary shall submit a detailed report to the appropriate committees of Congress on United States audit practices with respect to the ''International Science and Technology Centers Program''.

**SEC. 307. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS.**

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of State has concluded that the International Atomic Energy Agency (hereafter in this section referred to as the ''IAEA'') is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(5) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(6) Although voluntary contributions by the United States lessen the IAEA's budgetary constraints, they cannot readily be used for the long-term capital investments or permanent staff increases necessary to an effective IAEA safeguards regime.

(7) It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for important and effective agencies such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(b) ADDITIONAL FUNDING FOR THE INTERNATIONAL ATOMIC ENERGY AGENCY.—It is the sense of Congress that—

(1) the Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2002 budget;

(2) if a regular budget increase for the IAEA is achieved, the Secretary should seek to gain consensus within the IAEA Board of Governors for allocation of a larger proportion of that budget to nuclear nonproliferation activities; and

(3) if such a reallocation of the regular IAEA budget cannot be obtained, the United States should decrease its voluntary contribution by $400,000 for each $1,000,000 increase in its annual assessment.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated for international organizations, $60,000,000 are authorized to be appropriated in fiscal year 2002 for the payment of the United States assessment to the International Atomic Energy Agency, and $75,000,000 shall be available for that purpose in fiscal year 2003.

**SEC. 308. REVISED NONPROLIFERATION REPORTING REQUIREMENTS.**

Section 308 of Public Law 102–182 (22 U.S.C. 5606) is hereby repealed.

## Subtitle B—Russian Federation Debt Reduction for Nonproliferation

**SEC. 311. SHORT TITLE.**

This subtitle may be cited as the ''Russian Federation Debt Reduction for Nonproliferation Act of 2001''.

**SEC. 312. FINDINGS AND PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations' obligations to reduce their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation's nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies

are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation's export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly as possible, and the President should develop and present to Congress a plan for doing so.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy's Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if this objective is to be achieved.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation suffers from a significant foreign debt burden, a substantial proportion of which it inherited from the Soviet Union. The Russian Federation is taking full responsibility for this debt, but the burden of debt repayment could threaten Russian Federation economic reform, particularly in 2003 and beyond.

(9) The Russian Federation's need for debt relief has been the subject of discussions between the United States and the Russian Federation at the highest levels and is cited by United States officials as one reason why the Russian Federation has recognized that its future lies with the West.

(10) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, provide a model for a possible debt-for-nonproliferation exchange with the Russian Federation, which could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(11) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to recognize the vital interests of the United States, its allies, and the Russian Federation in reducing the threats to international security described in the findings set forth in subsection (a);

(2) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the alleviation of a portion of the Russian Federation's foreign debt, thus allowing the use of additional resources for these purposes; and

(3) to ensure that resources freed from debt in the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

**SEC. 313. DEFINITIONS.**

In this subtitle:

(1) AGREEMENT.—The term ''Agreement'' means the Russian Nonproliferation Investment Agreement provided for in section 318.

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(3) COST.—The term ''cost'' has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(4) FACILITY.—The term ''Facility'' means the Russian Nonproliferation Investment Facility established in the Department of the Treasury by section 314.

(5) SOVIET-ERA DEBT.—The term ''Soviet-era debt'' means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics.

**SEC. 314. ESTABLISHMENT OF THE RUSSIAN NONPROLIFERATION INVESTMENT FACILITY.**

There is established in the Department of the Treasury an entity to be known as the ''Russian Nonproliferation Investment Facility'' for the purpose of providing for the administration of debt reduction in accordance with this subtitle.

**SEC. 315. REDUCTION OF THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OWED TO THE UNITED STATES, GENERALLY.**

(a) AUTHORITY TO REDUCE SOVIET-ERA DEBT.—

(1) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), and subject to section 321, the President may reduce the amount of Soviet-era debt owed by the Russian Federation to the United States (or any agency of the United States) that is outstanding as of October 1, 2001.

(B) EXCEPTION.—The authority of subparagraph (A) to reduce Soviet-era debt does not include any debt that is described in section 316(a)(1).

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to reduce the amount of the Russian Federation's Soviet-era debt at least 15 days in advance of any formal determination to do so.

(3) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—For the cost of the reduction of any Soviet-era debt pursuant to this section, there are authorized to be appropriated to the President—

(i) $50,000,000 for fiscal year 2002; and

(ii) $100,000,000 for fiscal year 2003.

(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost of the modification of any Soviet-era debt pursuant to this section are made in advance.

(4) CERTAIN PROHIBITIONS INAPPLICABLE.—

(A) IN GENERAL.—A reduction of Soviet-era debt pursuant to this section shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(B) ADDITIONAL REQUIREMENT.—The authority of this section may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION OF SOVIET-ERA DEBT REDUCTION.—

(1) IN GENERAL.—Any reduction of Soviet-era debt pursuant to subsection (a) shall be—

(A) implemented pursuant to the terms of a Russian Nonproliferation Investment Agreement authorized under section 318; and

(B) accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in such subsection that are outstanding as of October 1, 2001.

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 of an agreement entered into under paragraph (1) with the Russian Federation to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation for the Russian Federation shall be established relating to the agreement, and the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of Soviet-era debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 704(a)(1) of the Foreign Assistance Act of 1961:

(1) The provisions relating to repayment of principal under section 705 of the Foreign Assistance Act of 1961.

(2) The provisions relating to interest on new obligations under section 706 of the Foreign Assistance Act of 1961.

**SEC. 316. REDUCTION OF SOVIET-ERA DEBT OWED TO THE UNITED STATES AS A RESULT OF CREDITS EXTENDED UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954.**

(a) AUTHORITY TO REDUCE CERTAIN SOVIET-ERA DEBT.—

(1) AUTHORITY.—Notwithstanding any other provision of law, and subject to section 321, the President may reduce the amount of Soviet-era debt owed to the United States (or any agency of the United States) by the Russian Federation that is outstanding as of October 1, 2001, as a result of any credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees of his intention to reduce the amount of the Russian Federation's Soviet-era debt described in paragraph (1) at least 15 days in advance of any formal determination to do so.

(3) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—For the cost of the reduction of any Soviet-era debt pursuant to this section, there are authorized to be appropriated to the President—

(i) $50,000,000 for fiscal year 2002; and

(ii) $100,000,000 for fiscal year 2003.

(B) LIMITATION.—The authority provided by this section shall be available only to the extent that appropriations for the cost of the modification of any Soviet-era debt pursuant to this section are made in advance.

(b) IMPLEMENTATION OF SOVIET-ERA DEBT REDUCTION.—

(1) IN GENERAL.—Any reduction of Soviet-era debt pursuant to subsection (a) shall be—

(A) implemented pursuant to the terms of a Russian Nonproliferation Investment Agreement authorized under section 318; and

(B) accomplished at the direction of the Facility by the exchange of a new obligation for obligations of the type referred to in such subsection that are outstanding as of October 1, 2001.

(2) EXCHANGE OF OBLIGATIONS.—

(A) IN GENERAL.—The Facility shall notify the Commodity Credit Corporation of an agreement entered into under paragraph (1) with an eligible country to exchange a new obligation for outstanding obligations.

(B) ADDITIONAL REQUIREMENT.—At the direction of the Facility, the old obligations that are the subject of the agreement shall be canceled and a new debt obligation shall be established for the Russian Federation relating to the agreement, and the Commodity Credit Corporation shall make an adjustment in its accounts to reflect the debt reduction.

(c) ADDITIONAL TERMS AND CONDITIONS.—The following additional terms and conditions shall apply to the reduction of Soviet-era debt under subsection (a)(1) in the same manner as such terms and conditions apply to the reduction of debt under section 604(a)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738c):

(1) The provisions relating to repayment of principal under section 605 of such Act.

(2) The provisions relating to interest on new obligations under section 606 of such Act.

**SEC. 317. AUTHORITY TO ENGAGE IN DEBT-FOR-NONPROLIFERATION EXCHANGES AND DEBT BUYBACKS.**

(a) LOANS AND CREDITS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

(1) DEBT-FOR-NONPROLIFERATION EXCHANGES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, and subject to section 321, the President may, in accordance with this section, sell to any purchaser eligible under subparagraph (B), any loan or credit described in section 315(a)(1), or any credit described in section 316(a)(1), or on receipt of payment from an eligible purchaser, reduce or cancel any such loan or credit or portion thereof, only for the purpose of facilitating a debt-for-nonproliferation exchange to support activities that further United States objectives described in the findings set forth in section 312(a).

(B) ELIGIBLE PURCHASER.—A loan or credit may be sold, reduced, or canceled under subparagraph (A) with respect to a purchaser who presents plans satisfactory to the President for using the loan or credit for the purpose of engaging in debt-for-nonproliferation exchange to support activities that further United States objectives described in the findings set forth in section 312(a).

(C) CONSULTATION REQUIREMENT.—Before the sale under subparagraph (A) to any purchaser eligible under subparagraph (B), or any reduction or cancellation under subparagraph (A), of any loan or credit made to the Russian Federation, the President shall consult with that country concerning the amount of loans or credits to be sold, reduced, or canceled and their uses for debt-for-nonproliferation exchanges to support activities that further United States objectives described in the findings set forth in section 312(a).

(D) AUTHORIZATION OF APPROPRIATIONS.—For the cost of the reduction of any debt pursuant to subparagraph (A), amounts authorized to be appropriated under sections 315(a)(3) and 316(a)(3) shall be made available for such reduction of debt pursuant to subparagraph (A).

(2) DEBT BUYBACKS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to the Russian Federation any loan or credit described in section 315(a)(1) or any credit described in section 316(a)(1), or on receipt of payment from the Russian Federation, reduce or cancel such loan or credit or portion thereof, if the purpose of doing so is to facilitate a debt buyback by the Russian Federation of its own qualified debt and the Russian Federation uses a substantial additional amount of its local currency to support activities that further United States objectives described in the findings set forth in section 312(a).

(3) LIMITATION.—The authority provided by paragraphs (1) and (2) shall be available only to the extent that appropriations for the cost of the modification of any debt pursuant to such paragraphs are made in advance.

(4) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans and credits may be sold, reduced, or canceled pursuant to this section.

(5) ADMINISTRATION.—

(A) IN GENERAL.—The Facility shall notify the Administrator of the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 or the Commodity Credit Corporation, as the case may be, of purchasers that the President has determined to be eligible under paragraph (1)(B), and shall direct such agency or Corporation, as the case may be, to carry out the sale, reduction, or cancellation of a loan pursuant to such paragraph.

(B) ADDITIONAL REQUIREMENT.—Such agency or Corporation, as the case may be, shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

(b) DEPOSIT OF PROCEEDS.—The proceeds from a sale, reduction, or cancellation of a loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

**SEC. 318. RUSSIAN NONPROLIFERATION INVESTMENT AGREEMENT.**

(a) AUTHORITY.—Subject to section 321, the Secretary is authorized, in consultation with other appropriate officials of the Federal Government, to enter into an agreement with the Russian Federation concerning the use of the funds saved by that country as a result of any debt relief provided pursuant to this subtitle. An agreement entered into under this section may be referred to as the ''Russian Nonproliferation Investment Agreement''.

(b) CONTENT OF AGREEMENT.—The Russian Nonproliferation Investment Agreement shall ensure that—

(1) a significant proportion of the funds saved by the Russian Federation as a result of any debt relief provided pursuant to this subtitle is devoted to nonproliferation programs and projects;

(2) funding of each such program or project is approved by the United States Government, either directly or through its representation on any governing board that may be directed or established to manage these funds;

(3) administration and oversight of nonproliferation programs and projects incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement is subject to audits conducted by or for the United States Government;

(5) unobligated funds for investments pursuant to the Agreement are segregated from other Russian Federation funds and invested in financial instruments guaranteed or insured by the United States Government;

(6) the funds that are devoted to programs and projects pursuant to the Agreement are not subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in a given project are agreed upon before the expenditure of funds is authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement is spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

**SEC. 319. STRUCTURE OF DEBT-FOR-NONPROLIFERATION ARRANGEMENTS.**

It is the sense of Congress that any debt-for-nonproliferation arrangements with the Russian Federation should provide for gradual debt relief over a period of years, with debt relief to be suspended if more than two years' worth of funds remain unobligated for approved nonproliferation programs or projects.

**SEC. 320. INDEPENDENT MEDIA AND THE RULE OF LAW.**

Subject to section 321, of the agreed funds saved by the Russian Federation as a result of any debt relief provided pursuant to this subtitle, up to 10 percent may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a ''Center for an Independent Press and the Rule of Law'' in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center's programs.

**SEC. 321. NONPROLIFERATION REQUIREMENT.**

(a) PROLIFERATION TO STATE SPONSORS OF TERRORISM.—The authorities granted under sections 315, 316, 317, 318, and 320 may not be exercised, and funds may not be expended, unless and until—

(1) the Russian Federation makes material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to countries that have been determined by the Secretary, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism; and

(2) the President certifies to the appropriate congressional committees that the condition required in paragraph (1) has been met.

(b) ANNUAL DETERMINATION.—If, in any annual report to Congress submitted pursuant to section 325, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a)(1), then, subject to the provisions of subsection (c), the authorities granted under under sections 315, 316, 317, 318, and 320 may not be exercised, and funds may not be expended, unless and until such certification is made to the appropriate congressional committees.

(c) PRESIDENTIAL WAIVER.—The President may waive the requirements of subsection (b) for a fiscal year if the President determines that imposition of those requirements in that fiscal year would be counter to the national interest of the United States and so reports to the appropriate congressional committees.

**SEC. 322. DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.**

The President and such other appropriate officials as the President may designate shall institute discussions in the Paris Club of creditor states with the objectives of—

(1) reaching agreement that each member of the Paris Club is authorized to negotiate debt exchanges with the Russian Federation covering a portion of its bilateral debt, to finance the accomplishment of nonproliferation and arms reduction activities;

(2) convincing other member states of the Paris Club, especially the largest holders of Soviet-era Russian debt, to dedicate significant proportions of their bilateral debt with the Russian Federation to these purposes; and

(3) reaching agreement, as appropriate, to establish a unified debt exchange fund to manage and provide financial transparency for the resources provided through the debt exchanges.

**SEC. 323. IMPLEMENTATION OF UNITED STATES POLICY.**

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the Committee on Nonproliferation Assistance to the Independent States of the Former Soviet Union (established pursuant to section 334 of this Act).

**SEC. 324. CONSULTATIONS WITH CONGRESS.**

The President shall consult with the appropriate congressional committees on a periodic basis to review the operations of the Facility and the Russian Federation's eligibility for benefits from the Facility.

**SEC. 325. ANNUAL REPORT TO CONGRESS.**

Not later than December 31, 2002, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning the operation of the Facility during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken by the Facility during the fiscal year;

(2) a description of any agreement entered into under this subtitle;

(3) a description of any grants that have been provided pursuant to the agreement; and

(4) a summary of the results of audits performed in the fiscal year pursuant to the agreement.

## Subtitle C—Nonproliferation Assistance Coordination

**SEC. 331. SHORT TITLE.**

This subtitle may be cited as the ''Nonproliferation Assistance Coordination Act of 2001''.

**SEC. 332. FINDINGS.**

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts suffers from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union require the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

**SEC. 333. INDEPENDENT STATES OF THE FORMER SOVIET UNION DEFINED.**

In this subtitle, the term ''independent states of the former Soviet Union'' has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

**SEC. 334. ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.**

(a) ESTABLISHMENT.—There is established within the executive branch of the Government an interagency committee known as the ''Committee on Nonproliferation Assistance to the Independent States of the Former Soviet Union'' (in this subtitle referred to as the ''Committee'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Committee shall be composed of five members, as follows:

(A) A representative of the Department of State designated by the Secretary of State.

(B) A representative of the Department of Energy designated by the Secretary of Energy.

(C) A representative of the Department of Defense designated by the Secretary of Defense.

(D) A representative of the Department of Commerce designated by the Secretary of Commerce.

(E) A representative of the Assistant to the President for National Security Affairs designated by the Assistant to the President.

(2) LEVEL OF REPRESENTATION.—The Secretary of a department named in subparagraph (A), (B), (C), or (D) of paragraph (1) shall designate as the department's representative an official of that department who is not below the level of an Assistant Secretary of the department.

(c) CHAIR.—The representative of the Assistant to the President for National Security Affairs shall serve as Chair of the Committee. The Chair may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

**SEC. 335. DUTIES OF THE COMMITTEE.**

(a) IN GENERAL.—The Committee shall have primary continuing responsibility within the executive branch of the Government for—

(1) monitoring United States nonproliferation efforts in the independent states of the former Soviet Union; and

(2) coordinating the implementation of United States policy with respect to such efforts.

(b) DUTIES SPECIFIED.—In carrying out the responsibilities described in subsection (a), the Committee shall—

(1) arrange for the preparation of analyses on the issues and problems relating to coordination within and among United States departments and agencies on nonproliferation efforts of the independent states of the former Soviet Union;

(2) arrange for the preparation of analyses on the issues and problems relating to coordination between the United States public and private sectors on nonproliferation efforts in the independent states of the former Soviet Union, including coordination between public and private spending on nonproliferation programs of the independent states of the former Soviet Union and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(3) provide guidance on arrangements that will coordinate, de-conflict, and maximize the utility of United States public spending on nonproliferation programs of the independent states of the former Soviet Union to ensure efficiency and further United States national security interests;

(4) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union to voluntarily report these efforts to the Committee;

(5) arrange for the preparation of analyses on the issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts in the independent states of the former Soviet Union; and

(6) consider, and make recommendations to the President and Congress with respect to, proposals for new legislation or regulations relating to United States nonproliferation efforts in the independent states of the former Soviet Union as may be necessary.

**SEC. 336. ADMINISTRATIVE SUPPORT.**

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the Committee in carrying out its functions and activities under this subtitle.

**SEC. 337. CONFIDENTIALITY OF INFORMATION.**

Information which has been submitted or received in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by the Committee only for the purpose of carrying out the functions and activities set forth in this subtitle.

**SEC. 338. STATUTORY CONSTRUCTION.**

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the Committee shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

## TITLE IV—EXPEDITING THE MUNITIONS LICENSING PROCESS

**SEC. 401. LICENSE OFFICER STAFFING.**

(a) FUNDING.—Of the amounts authorized to be appropriated under the appropriations account entitled ''DIPLOMATIC AND CONSULAR PROGRAMS'' for fiscal years 2002 and 2003, not less than $10,000,000 shall be made available each such fiscal year for the Office of Defense Trade Controls of the Department of State for salaries and expenses.

(b) ASSIGNMENT OF LICENSE REVIEW OFFICERS.—Effective January 1, 2002, the Secretary shall assign to the Office of Defense Trade Controls of the Department of State a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not exceed 40.

(c) DETAILEES.—For the purpose of expediting license reviews, the Secretary of Defense should ensure that 10 military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

**SEC. 402. FUNDING FOR DATABASE AUTOMATION.**

Of the amounts authorized to be appropriated under the appropriations account entitled ''CAPITAL INVESTMENT FUND'' for fiscal years 2002 and 2003, not less than $4,000,000 shall be made available each such fiscal year for the Office of Defense Trade Controls of the Department of State for the modernization of information management systems.

**SEC. 403. INFORMATION MANAGEMENT PRIORITIES.**

(a) OBJECTIVE.—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

(b) ESTABLISHMENT OF AN ELECTRONIC SYSTEM.—Of the amounts made available pursuant to section 402, not less than $3,000,000 each such fiscal year shall be made available to fully automate the Defense Trade Application System, and to ensure that the system—

(1) is a secure, electronic system for the filing and review of Munitions List license applications;

(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

(3) is capable of exchanging data with—

(A) the Export Control Automated Support System of the Department of Commerce;

(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

(C) the Export Control System of the Central Intelligence Agency; and

(D) the Proliferation Information Network System of the Department of Energy.

(c) MUNITIONS LIST DEFINED.—In this section, the term ''Munitions List'' means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

**SEC. 404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.**

(a) CONTRIBUTION TO THE AUTOMATED EXPORT SYSTEM.—Not less than $250,000 of the amounts provided under section 302 for each fiscal year shall be available for the purpose of—

(1) providing the Department of State with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department of State, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

(b) MANDATORY FILING.—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, to file such information through the Automated Export System.

(c) REQUIREMENT FOR INFORMATION SHARING.—The Secretary shall conclude an information-sharing arrangement with the heads of United States Customs Service and the Census Bureau—

(1) to allow the Department of State to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department of State.

(d) SECRETARY OF TREASURY FUNCTIONS.—Section 303 of title 13, United States Code, is amended by striking '', other than by mail,''.

(e) FILING EXPORT INFORMATION, DELAYED FILINGS, PENALTIES FOR FAILURE TO FILE.—Section 304 of title 13, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ''the penal sum of $1,000'' and inserting ''a penal sum of $10,000''; and

(B) in the third sentence, by striking ''a penalty not to exceed $100 for each day's delinquency beyond the prescribed period, but not more than $1,000,'' and inserting ''a penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation'';

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

''(b) Any person, other than a person described in subsection (a), required to submit export information, shall file such information in accordance with any rule, regulation, or order issued pursuant to this chapter. In the event any such information or reports are not filed within such prescribed period, the Secretary of Commerce (and officers of the Department of Commerce designated by the Secretary) may impose a civil penalty not to exceed $1,000 for each day's delinquency beyond the prescribed period, but not more than $10,000 per violation.''.

(f) ADDITIONAL PENALTIES.—

(1) IN GENERAL.—Section 305 of title 13, United States Code, is amended to read as follows:

**''SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES.**

''(a) CRIMINAL PENALTIES.—(1) Any person who knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

''(2) Any person who knowingly reports any information on or uses the SED or the AES to further any illegal activity shall be subject to a fine not to exceed $10,000 per violation or imprisonment for not more than 5 years, or both.

''(3) Any person who is convicted under this subsection shall, in addition to any other penalty, be subject to forfeiting to the United States—

''(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

''(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

''(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

''(b) CIVIL PENALTIES.—The Secretary (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed $10,000 per violation on any person violating the provisions of this chapter or any rule, regulation, or order issued thereunder, except as provided in section 304. Such penalty may be in addition to any other penalty imposed by law.

''(c) CIVIL PENALTY PROCEDURE.—(1) When a civil penalty is sought for a violation of this section or of section 304, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code.

''(2) If any person fails to pay a civil penalty imposed under this chapter, the Secretary may ask the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates from the date of the final order). No such action may be commenced more than 5 years after the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

''(3) The Secretary may remit or mitigate any penalties imposed under paragraph (1) if, in his or her opinion—

''(A) the penalties were incurred without willful negligence or fraud; or

''(B) other circumstances exist that justify a remission or mitigation.

''(4) If, pursuant to section 306, the Secretary delegates functions under this section to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of actions and compromise of claims, shall apply.

''(5) Any amount paid in satisfaction of a civil penalty imposed under this section or section 304 shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts.

''(d) ENFORCEMENT.—(1) The Secretary of Commerce may designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

''(2) The Commissioner of Customs may designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter.

''(e) REGULATIONS.—The Secretary of Commerce shall promulgate regulations for the implementation and enforcement of this section.

''(f) EXEMPTION.—The criminal fines provided for in this section are exempt from the provisions of section 3571 of title 18, United States Code.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of title 13, United States Code, is amended by striking the item relating to section 305 and inserting the following:

''305. Penalties for unlawful export information activities.''.

**SEC. 405. ADJUSTMENT OF THRESHOLD AMOUNTS FOR CONGRESSIONAL REVIEW PURPOSES.**

The Arms Export Control Act is amended—

(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3)(A), by striking ''The President may not'' and inserting ''Subject to paragraph (5), the President may not''; and

(B) by adding at the end of the following new paragraph:

''(5) In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

''(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at $25,000,000 or more; or

''(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at $100,000,000 or more).'';

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsection (b)—

(i) in paragraph (1), by striking ''(1) In the case of'' and inserting ''(1) Subject to paragraph (6), in the case of'';

(ii) in paragraph (5)(C), by striking ''(C) If'' and inserting ''(C) Subject to paragraph (6), if''; and

(iii) by adding at the end of the following new paragraph:

''(6) The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

''(A) sale of major defense equipment under this Act for, or enhancement or upgrade of major defense equipment at a cost of, $25,000,000 or more, as the case may be; and

''(B) sale of defense articles or services for, or enhancement or upgrade of defense articles or services at a cost of, $100,000,000 or more, as the case may be; or

''(C) sale of design and construction services for, or enhancement or upgrade of design and construction services at a cost of, $300,000,000 or more, as the case may be.''; and

(B) in subsection (c)—

(i) in paragraph (1), by striking ''(1) In the case of'' and inserting ''(1) Subject to paragraph (5), in the case of''; and

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

''(5) In the case of an application by a person (other than with regard to a sale under section 21 or 22 of this Act) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitation on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

''(A) major defense equipment sold under a contract in the amount of $25,000,000 or more; or

''(B) defense articles or defense services sold under a contract in the amount of $100,000,000 or more.''; and

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking ''In the case of'' and inserting ''(1) Subject to paragraph (2), in the case of''; and

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

''(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand, the limitation in paragraph (1) shall apply only if the agreement involves a lease or loan of—

''(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at $25,000,000 or more; or

''(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at $100,000,000 or more.''.

**SEC. 406. PERIODIC NOTIFICATION OF PENDING APPLICATIONS FOR EXPORT LICENSES.**

The Secretary shall submit, on a biannual basis, to the appropriate committees of Congress a report identifying—

(1) each outstanding application for a license to export under section 38 of the Arms Export Control Act for which final administrative action has been withheld for longer than 180 days; and

(2) the referral status of each such application and any other relevant information.

## TITLE V—NATIONAL SECURITY ASSISTANCE STRATEGY

**SEC. 501. ESTABLISHMENT OF THE STRATEGY.**

(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter in connection with submission of congressional presentation materials for the foreign operations appropriations budget request, the Secretary shall submit to the appropriate committees of Congress a report setting forth a National Security Assistance Strategy for the United States.

(b) ELEMENTS OF THE STRATEGY.—The National Security Assistance Strategy shall—

(1) set forth a 5-year plan for security assistance programs;

(2) be consistent with the National Security Strategy of the United States;

(3) be coordinated with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff;

(4) identify overarching security assistance objectives, including identification of the role that specific security assistance programs will play in achieving such objectives;

(5) identify a primary security assistance objective, as well as specific secondary objectives, for individual countries;

(6) identify, on a country-by-country basis, how specific resources will be allocated to accomplish both primary and secondary objectives;

(7) discuss how specific types of assistance, such as foreign military financing and international military education and training, will be combined at the country level to achieve United States objectives; and

(8) detail, with respect to each of the paragraphs (1) through (7), how specific types of assistance provided pursuant to the Arms Export Control Act and Foreign Assistance Act of 1961 are coordinated with United States assistance programs administered by the Department of Defense and other agencies.

(c) COVERED ASSISTANCE.—The National Security Assistance Strategy shall cover assistance provided under—

(1) section 23 of the Arms Export Control Act (22 U.S.C. 2763);

(2) chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.); and

(3) section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321i).

**SEC. 502. SECURITY ASSISTANCE SURVEYS.**

(a) UTILIZATION.—The Secretary shall utilize security assistance surveys in preparation of the National Security Assistance Strategy required pursuant to section 501 of this Act.

(b) FUNDING.—Of the amounts made available for fiscal year 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), $2,000,000 is authorized to be available to the Secretary to conduct security assistance surveys, or to request such a survey, on a reimbursable basis, by the Department of Defense or other United States Government agencies. Such surveys shall be conducted consistent with the requirements of section 26 of the Arms Export Control Act.

## TITLE VI—MISCELLANEOUS PROVISIONS

**SEC. 601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.**

(a) UNITED STATES POLICY.—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

(1) Continuation of a nuclear testing moratorium.

(2) Commitment not to deploy nuclear weapons.

(3) Agreement by both governments to bring their export controls in line with the guidelines and requirements of the Nuclear Suppliers Group.

(4) Agreement by both governments to bring their export controls in line with the guidelines and requirements of the Zangger Committee.

(5) Agreement by both governments to bring their export controls in line with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(6) Establishment of a modern, effective system to protect and secure nuclear devices and materiel from unauthorized use, accidental employment, theft, espionage, misuse, or abuse.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues, establish confidence building measures, and increase transparency with regard to nuclear policies, programs, stockpiles, capabilities, and delivery systems.

(b) REPORT.—Not later than March 1, 2003, the President shall submit to the appropriate committees of Congress a report describing United States efforts in pursuit of the objectives listed in subsection (a), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

**SEC. 602. REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.**

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is possible, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

**SEC. 603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NONPROLIFERATION ORGANIZATIONS.**

(a) IN GENERAL.—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, shall develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

(b) REPORT REQUIRED.—Not later than May 1, 2002, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

**SEC. 604. DIPLOMATIC PRESENCE OVERSEAS.**

(a) PURPOSE.—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department of State.

(b) AUTHORITY.—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation or Political Military Affairs Bureaus of the Department of State.

(c) TRAINING.—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

**SEC. 605. PROTECTION AGAINST AGRICULTURAL BIOTERRORISM.**

Of funds made available to carry out programs under the Foreign Assistance Act of 1961, $1,500,000 may be made available to North Carolina State University for the purpose of fingerprinting crop and livestock pathogens in order to enhance the ability of the United States Government to detect new strains, determine their origin, and to facilitate research in pathogen epidemiology.

**SEC. 606. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.**

(a) FINDINGS.—Congress makes the following findings:

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition that no sample collected in the United States pursuant to the Convention would be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples taken during a challenge inspection under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to meet the requirements of condition (18) of the resolution of ratification of the Chemical Weapons Convention, and section 304 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard, and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule 1 of the Annex on Schedules of Chemicals of the Chemical Weapons Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(8) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(9) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that the second designated laboratory is not a United States Government facility. Further, it is not cost-effective to build and equip another Government laboratory to meet OPCW designation standards when such capability already exists in the private sector.

(b) ESTABLISHMENT OF SECOND DESIGNATED LABORATORY.—

(1) DIRECTIVE.—Not later than February 1, 2002, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711), shall select, through competitive procedures, a commercial laboratory within the United States to pursue designation by the OPCW.

(2) DELEGATION.—The National Authority may delegate the authority and administrative responsibility for carrying out paragraph (1) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(3) REPORT.—Not later than March 1, 2002, the National Authority shall submit to the appropriate committees of Congress a report detailing a plan for securing OPCW designation of a third United States laboratory by December 1, 2003.

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION.—The term ''Chemical Weapons Convention'' means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term ''OPCW'' means the Organization for the Prohibition of Chemical Weapons established under the Convention.

## TITLE VII—AUTHORITY TO TRANSFER NAVAL VESSELS

**SEC. 701. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.**

(a) AUTHORITY TO TRANSFER.—

(1) BRAZIL.—The President is authorized to transfer to the Government of Brazil the ''Newport'' class tank landing ship Peoria (LST1183). Such transfer shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(2) POLAND.—The President is authorized to transfer to the Government of Poland the ''Oliver Hazard Perry'' class guided missile frigate Wadsworth (FFG 9). Such transfer shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(3) TURKEY.—The President is authorized to transfer to the Government of Turkey the ''Oliver Hazard Perry'' class guided missile frigates Estocin (FFG 15) and Samuel Eliot Morrison (FFG 13). Each such transfer shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761). The President is further authorized to transfer to the Government of Turkey the ''Knox'' class frigates Capadanno (FF 1093), Thomas C. Hart (FF 1092), Donald B. Beary (FF 1085), McCandless (FF 1084), Reasoner (FF 1063), and Bowen (FF 1079). The transfer of these 6 ''Knox'' class frigates shall be on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j).

(4) TAIWAN.—The President is authorized to transfer to the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act) the ''Kidd'' class guided missile destroyers Kidd (DDG 993), Callaghan (DDG 994), Scott (DDG 995), and Chandler (DDG 996). The transfer of these 4 ''Kidd'' class guided missile destroyers shall be on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761).

(b) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(c) COSTS OF TRANSFERS.—Notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)), any expense incurred by the United States in connection with a transfer authorized to be made on a grant basis under subsection (a) or (b) shall be charged to the recipient.

(d) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the vessel joins the naval forces of that country, performed at a United States Navy shipyard or other shipyard located in the United States.

(e) EXPIRATION OF AUTHORITY.—The authority provided under subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

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**SA 3386.** Mr. DASCHLE proposed an amendment to the bill H.R. 3009, to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Trade Act of 2002''.

**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into 3 divisions as follows:

(1) DIVISION A.—Trade Adjustment Assistance.

(2) DIVISION B.—Trade Promotion Authority.

(3) DIVISION C.—Extension and Modification of Certain Preferential Trade Treatment.

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

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Sec. 111. Adjustment assistance for workers.
Sec. 112. Displaced worker self-employment training pilot program.

TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

Sec. 201. Reauthorization of program.

TITLE III—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES

Sec. 301. Purpose.
Sec. 302. Trade adjustment assistance for communities.

TITLE IV—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

Sec. 401. Trade adjustment assistance for farmers.

TITLE V—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

Sec. 501. Trade adjustment assistance for fishermen.

TITLE VI—HEALTH INSURANCE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE

Sec. 601. Trade adjustment assistance health insurance credit.
Sec. 602. Advance payment of trade adjustment assistance health insurance credit.
Sec. 603. Health insurance coverage for eligible individuals.

TITLE VII—CONFORMING AMENDMENTS AND EFFECTIVE DATE

Sec. 701. Conforming amendments.

TITLE VIII—SAVINGS PROVISIONS AND EFFECTIVE DATE

Sec. 801. Savings provisions.
Sec. 802. Effective date.

TITLE IX—REVENUE PROVISIONS

Sec. 901. Custom user fees.

TITLE X—MISCELLANEOUS PROVISIONS

Sec. 1001. Country of origin labeling of fish and shellfish products.
Sec. 1002. Sugar policy.

TITLE XI—CUSTOMS REAUTHORIZATION

Sec. 1101. Short title.

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

Sec. 1111. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
Sec. 1112. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
Sec. 1113. Compliance with performance plan requirements.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

Sec. 1121. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.

CHAPTER 3—MISCELLANEOUS PROVISIONS

Sec. 1131. Additional Customs Service officers for United States-Canada border.
Sec. 1132. Study and report relating to personnel practices of the Customs Service.
Sec. 1133. Study and report relating to accounting and auditing procedures of the Customs Service.
Sec. 1134. Establishment and implementation of cost accounting system; reports.
Sec. 1135. Study and report relating to timeliness of prospective rulings.
Sec. 1136. Study and report relating to customs user fees.

CHAPTER 4—ANTITERRORISM PROVISIONS

Sec. 1141. Emergency adjustments to offices, ports of entry, or staffing of the Customs Service.
Sec. 1142. Mandatory advanced electronic information for cargo and passengers.
Sec. 1143. Border search authority for certain contraband in outbound mail.
Sec. 1144. Authorization of appropriations for reestablishment of Customs operations in New York City.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

Sec. 1151. GAO audit of textile transshipment monitoring by Customs Service.
Sec. 1152. Authorization of appropriations for textile transshipment enforcement operations.
Sec. 1153. Implementation of the African Growth and Opportunity Act.

Subtitle B—Office of the United States Trade Representative

Sec. 1161. Authorization of appropriations.

Subtitle C—United States International Trade Commission

Sec. 1171. Authorization of appropriations.

Subtitle D—Other Trade Provisions

Sec. 1181. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.
Sec. 1182. Regulatory audit procedures.

Subtitle E—Sense of Senate

Sec. 1191. Sense of Senate.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

Sec. 2101. Short title; findings.
Sec. 2102. Trade negotiating objectives.
Sec. 2103. Trade agreements authority.
Sec. 2104. Consultations and assessment.
Sec. 2105. Implementation of trade agreements.
Sec. 2106. Treatment of certain trade agreements for which negotiations have already begun.
Sec. 2107. Congressional oversight group.
Sec. 2108. Additional implementation and enforcement requirements.
Sec. 2109. Committee staff.
Sec. 2110. Conforming amendments.
Sec. 2111. Report on impact of trade promotion authority.
Sec. 2112. Identification of small business advocate at WTO.
Sec. 2113. Definitions.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

Sec. 3101. Short title; findings.
Sec. 3102. Temporary provisions.
Sec. 3103. Termination.

TITLE XXXII—MISCELLANEOUS TRADE BENEFITS

Sec. 3201. Wool provisions.
Sec. 3202. Ceiling fans.
Sec. 3203. Certain steam or other vapor generating boilers used in nuclear facilities.

DIVISION D—AGRICULTURE ASSISTANCE

## DIVISION A—TRADE ADJUSTMENT ASSISTANCE

**SEC. 101. SHORT TITLE.**

This division may be cited as the ''Trade Adjustment Assistance Reform Act of 2002''.

## TITLE I—TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

**SEC. 111. ADJUSTMENT ASSISTANCE FOR WORKERS.**

Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended to read as follows:

### "CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

### "Subchapter A—General Provisions

**"SEC. 221. DEFINITIONS.**

''In this chapter:

''(1) ADDITIONAL COMPENSATION.—The term 'additional compensation' has the meaning given that term in section 205(3) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(2) ADVERSELY AFFECTED EMPLOYMENT.—The term 'adversely affected employment' means employment in a firm or appropriate subdivision of a firm, if workers of that firm or subdivision are eligible to apply for adjustment assistance under this chapter.

''(3) ADVERSELY AFFECTED WORKER.—

''(A) IN GENERAL.—The term 'adversely affected worker' means a worker who is a member of a group of workers certified by the Secretary under section 231(a)(1) as eligible for trade adjustment assistance.

''(B) ADVERSELY AFFECTED SECONDARY WORKER.—The term 'adversely affected worker' includes an adversely affected secondary worker who is a member of a group of workers employed at a downstream producer or a supplier, that is certified by the Secretary under section 231(a)(2) as eligible for trade adjustment assistance.

''(4) AVERAGE WEEKLY HOURS.—The term 'average weekly hours' means the average hours worked by a worker (excluding overtime) in the employment from which the worker has been or claims to have been separated in the 52 weeks (excluding weeks during which the worker was on leave for purposes of vacation, sickness, maternity, military service, or any other employer-authorized leave) preceding the week specified in paragraph (5)(B)(ii).

''(5) AVERAGE WEEKLY WAGE.—

''(A) IN GENERAL.—The term 'average weekly wage' means 1/13 of the total wages paid to an individual in the high quarter.

''(B) DEFINITIONS.—For purposes of computing the average weekly wage—

''(i) the term 'high quarter' means the quarter in which the individual's total wages were highest among the first 4 of the last 5 completed calendar quarters immediately preceding the quarter in which occurs the week with respect to which the computation is made; and

''(ii) the term 'week' means the week in which total separation occurred, or, in cases where partial separation is claimed, an appropriate week, as defined in regulations prescribed by the Secretary.

''(6) BENEFIT PERIOD.—The term 'benefit period' means, with respect to an individual, the following:

''(A) STATE LAW.—The benefit year and any ensuing period, as determined under applicable State law, during which the individual is eligible for regular compensation, additional compensation, or extended compensation.

''(B) FEDERAL LAW.—The equivalent to the benefit year or ensuing period provided for

under the applicable Federal unemployment insurance law.

''(7) BENEFIT YEAR.—The term 'benefit year' has the same meaning given that term in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(8) CONTRIBUTED IMPORTANTLY.—The term 'contributed importantly' means a cause that is important but not necessarily more important than any other cause.

''(9) COOPERATING STATE.—The term 'cooperating State' means any State that has entered into an agreement with the Secretary under section 222.

''(10) CUSTOMIZED TRAINING.—The term 'customized training' means training that is designed to meet the special requirements of an employer (including a group of employers) and that is conducted with a commitment by the employer to employ an individual on successful completion of the training.

''(11) DOWNSTREAM PRODUCER.—The term 'downstream producer' means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under section 231(a)(1) of a group of workers employed by such other firm.

''(12) EXTENDED COMPENSATION.—The term 'extended compensation' has the meaning given that term in section 205(4) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(13) JOB FINDING CLUB.—The term 'job finding club' means a job search workshop which includes a period of structured, supervised activity in which participants attempt to obtain jobs.

''(14) JOB SEARCH PROGRAM.—The term 'job search program' means a job search workshop or job finding club.

''(15) JOB SEARCH WORKSHOP.—The term 'job search workshop' means a short (1- to 3-day) seminar, covering subjects such as labor market information, résumé writing, interviewing techniques, and techniques for finding job openings, that is designed to provide participants with knowledge that will enable the participants to find jobs.

''(16) ON-THE-JOB TRAINING.—The term 'on-the-job training' has the same meaning as that term has in section 101(31) of the Workforce Investment Act.

''(17) PARTIAL SEPARATION.—A partial separation shall be considered to exist with respect to an individual if—

''(A) the individual has had a 20-percent or greater reduction in the average weekly hours worked by that individual in adversely affected employment; and

''(B) the individual has had a 20-percent or greater reduction in the average weekly wage of the individual with respect to adversely affected employment.

''(18) REGULAR COMPENSATION.—The term 'regular compensation' has the meaning given that term in section 205(2) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(19) REGULAR STATE UNEMPLOYMENT.—The term 'regular State unemployment' means unemployment insurance benefits other than an extension of unemployment insurance by a State using its own funds beyond either the 26-week period mandated by Federal law or any additional period provided for under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

''(20) SECRETARY.—The term 'Secretary' means the Secretary of Labor.

''(21) STATE.—The term 'State' includes each State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

''(22) STATE AGENCY.—The term 'State agency' means the agency of the State that administers the State law.

''(23) STATE LAW.—The term 'State law' means the unemployment insurance law of the State approved by the Secretary under section 3304 of the Internal Revenue Code of 1986.

''(24) SUPPLIER.—The term 'supplier' means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under section 231(a)(1) of a group of workers employed by such other firm. The term 'supplier' also includes a firm that has provided services under a contract to a firm (or subdivision) that employs a group of workers covered by a certification of eligibility under section 231(a)(1).

''(25) TOTAL SEPARATION.—The term 'total separation' means the layoff or severance of an individual from employment with a firm in which or in a subdivision of which, adversely affected employment exists.

''(26) UNEMPLOYMENT INSURANCE.—The term 'unemployment insurance' means the unemployment compensation payable to an individual under any State law or Federal unemployment compensation law, including chapter 85 of title 5, United States Code, and the Railroad Unemployment Insurance Act (45 U.S.C. 351 et seq.).

''(27) WEEK.—Except as provided in paragraph 5(B)(ii), the term 'week' means a week as defined in the applicable State law.

''(28) WEEK OF UNEMPLOYMENT.—The term 'week of unemployment' means a week of total, part-total, or partial unemployment as determined under the applicable State law or Federal unemployment insurance law.

**''SEC. 222. AGREEMENTS WITH STATES.**

''(a) IN GENERAL.—The Secretary is authorized on behalf of the United States to enter into an agreement with any State or with any State agency (referred to in this chapter as 'cooperating State' and 'cooperating State agency', respectively) to facilitate the provision of services under this chapter.

''(b) PROVISIONS OF AGREEMENTS.—Under an agreement entered into under subsection (a)—

''(1) the cooperating State agency as an agent of the United States shall—

''(A) facilitate the early filing of petitions under section 231(b) for any group of workers that the State considers is likely to be eligible for benefits under this chapter;

''(B) assist the Secretary in the review of any petition submitted from that State by verifying the information and providing other assistance as the Secretary may request;

''(C) advise each worker who applies for unemployment insurance of the available benefits under this chapter and the procedures and deadlines for applying for those benefits and of the worker's potential eligibility for assistance with health care coverage through the trade adjustment assistance health insurance credit under section 6429 of the Internal Revenue Code of 1986 or under funds made available to the State to carry out section 173(f) of the Workforce Investment Act of 1998;

''(D) receive applications for services under this chapter;

''(E) provide payments on the basis provided for in this chapter;

''(F) advise each adversely affected worker to apply for training under section 240, and of the deadlines for benefits related to enrollment in training under this chapter;

''(G) ensure that the State employees with responsibility for carrying out an agreement entered into under subsection (a)—

''(i) inform adversely affected workers covered by a certification issued under section 231(c) of the workers' (and individual member's of the worker's family) potential eligibility for—

''(I) medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.);

''(II) child health assistance under the State children's health insurance program established under title XXI of that Act (42 U.S.C. 1397aa et seq.);

''(III) child care services for which assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.);

''(IV) the trade adjustment assistance health insurance credit under section 6429 of the Internal Revenue Code of 1986 and health care coverage assistance under funds made available to the State to carry out section 173(f) of the Workforce Investment Act of 1998; and

''(V) other Federal- and State-funded health care, child care, transportation, and assistance programs for which the workers may be eligible; and

''(ii) provide such workers with information regarding how to apply for such assistance, services, and programs, including notification that the election period for COBRA continuation may be extended for certain workers under section 603 of the Trade Adjustment Assistance Reform Act of 2002;

''(H) provide adversely affected workers referral to training services approved under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), and any other appropriate Federal or State program designed to assist dislocated workers or unemployed individuals, consistent with the requirements of subsection (b)(2);

''(I) collect and transmit to the Secretary any data as the Secretary shall reasonably require to assist the Secretary in assuring the effective and efficient performance of the programs carried out under this chapter; and

''(J) otherwise actively cooperate with the Secretary and with other Federal and State agencies in providing payments and services under this chapter, including participation in the performance measurement system established by the Secretary under section 224.

''(2) the cooperating State shall—

''(A) arrange for the provision of services under this chapter through the one-stop delivery system established in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c)) where available;

''(B) provide to adversely affected workers statewide rapid response activities under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)) in the same manner and to the same extent as any other worker eligible for those activities;

''(C) afford adversely affected workers the services provided under section 134(d) of the Workforce Investment Act of 1998 (29 U.S.C. 92864(d)) in the same manner and to the same extent as any other worker eligible for those services; and

''(D) provide training services under this chapter using training providers approved under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.) which may include community colleges, and other effective providers of training services.

''(c) OTHER PROVISIONS.—

''(1) APPROVAL OF TRAINING PROVIDERS.—The Secretary shall ensure that the training services provided by cooperating States are provided by organizations approved by the Secretary to effectively assist workers eligible for assistance under this chapter.

''(2) AMENDMENT, SUSPENSION, OR TERMINATION OF AGREEMENTS.—Each agreement entered into under this section shall provide

the terms and conditions upon which the agreement may be amended, suspended, or terminated.

''(3) EFFECT ON UNEMPLOYMENT INSURANCE.—Each agreement entered into under this section shall provide that unemployment insurance otherwise payable to any adversely affected worker will not be denied or reduced for any week by reason of any right to payments under this chapter.

''(4) COORDINATION OF WORKFORCE INVESTMENT ACTIVITIES.—In order to promote the coordination of Workforce Investment Act activities in each State with activities carried out under this chapter, each agreement entered into under this section shall provide that the State shall submit to the Secretary, in such form as the Secretary may require, the description and information described in paragraphs (8) and (14) of section 112(b) of the Workforce Investment Act of 1998 (29 U.S.C. 2822(b) (8) and (14)).

''(d) REVIEW OF STATE DETERMINATIONS.—

''(1) IN GENERAL.—A determination by a cooperating State regarding entitlement to program benefits under this chapter is subject to review in the same manner and to the same extent as determinations under the applicable State law.

''(2) APPEAL.—A review undertaken by a cooperating State under paragraph (1) may be appealed to the Secretary pursuant to such regulations as the Secretary may prescribe.

**''SEC. 231. CERTIFICATION AS ADVERSELY AFFECTED WORKERS.**

''(a) ELIGIBILITY FOR CERTIFICATION.—

''(1) GENERAL RULE.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected workers and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, that either—

''(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

''(ii) the value or volume of imports of articles like or directly competitive with articles produced by that firm or subdivision have increased; and

''(iii) the increase in the value or volume of imports described in clause (ii) contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

''(B) there has been a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by that firm or subdivision.

''(2) ADVERSELY AFFECTED SECONDARY WORKER.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that—

''(A) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

''(B) the workers' firm (or subdivision) is a supplier to a firm (or subdivision) or downstream producer to a firm (or subdivision) described in paragraph (1) (A) or (B); and

''(C) a loss of business with a firm (or subdivision) described in paragraph (1) (A) or (B) contributed importantly to the workers' separation or threat of separation determined under subparagraph (A).

''(3) SPECIAL RULE FOR SECONDARY WORKERS.—Notwithstanding paragraph (2), the Secretary may, pursuant to standards established by the Secretary and for good cause shown, certify as eligible for trade adjustment assistance under this chapter a group of workers who meet the requirements for certification as adversely affected secondary workers in paragraph (2), except that the Secretary has neither received nor declined to certify a petition under paragraph (1) on behalf of workers at a firm to which the petitioning workers' firm is a supplier or downstream producer as defined in section 221 (11) and (24).

''(4) SPECIAL PROVISIONS.—

''(A) OIL AND NATURAL GAS PRODUCERS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

''(B) OIL AND NATURAL GAS IMPORTS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

''(C) TACONITE.—For purposes of this section, taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.

''(D) SERVICE WORKERS.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish a program to provide assistance under this chapter to domestic operators of motor carriers who are adversely affected by competition from foreign owned and operated motor carriers.

''(ii) DATA COLLECTION SYSTEM.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall put in place a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation for each worker.

''(iii) REPORT.—Not later than 2 years after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall report to Congress the results of a study on ways for extending the programs in this chapter to adversely affected service workers, including recommendations for legislation.

''(b) PETITIONS.—

''(1) IN GENERAL.—A petition for certification of eligibility for trade adjustment assistance under this chapter for a group of adversely affected workers shall be filed simultaneously with the Secretary and with the Governor of the State in which the firm or subdivision of the firm employing the workers is located.

''(2) PERSONS WHO MAY FILE A PETITION.—A petition under paragraph (1) may be filed by any of the following:

''(A) WORKERS.—A group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

''(B) WORKER REPRESENTATIVES.—The certified or recognized union or other duly appointed representative of the workers.

''(C) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION.—Any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102).

''(D) OTHER.—Employers of workers described in subparagraph (A), one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or State employment agencies, on behalf of the workers.

''(E) REQUEST TO INITIATE CERTIFICATION.—The President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may petition the Secretary to initiate a certification process under this chapter to determine the eligibility for trade adjustment assistance of a group of workers.

''(3) ACTIONS BY GOVERNOR.—

''(A) COOPERATING STATE.—Upon receipt of a petition, the Governor of a cooperating State shall ensure that the requirements of the agreement entered into under section 222 are met.

''(B) OTHER STATES.—Upon receipt of a petition, the Governor of a State that has not entered into an agreement under section 222 shall coordinate closely with the Secretary to ensure that workers covered by a petition are—

''(i) provided with all available services, including rapid response activities under section 134 of the Workforce Investment Act (29 U.S.C. 2864);

''(ii) informed of the workers' (and individual member's of the worker's family) potential eligibility for—

''(I) medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.);

''(II) child health assistance under the State children's health insurance program established under title XXI of that Act (42 U.S.C. 1397aa et seq.);

''(III) child care services for which assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.); and

''(IV) the trade adjustment assistance health insurance credit under section 6429 of the Internal Revenue Code of 1986 and health care coverage assistance under funds made available to the State to carry out section 173(f) of the Workforce Investment Act of 1998; and

''(V) other Federal and State funded health care, child care, transportation, and assistance programs that the workers may be eligible for; and

''(iii) provided with information regarding how to apply for the assistance, services, and programs described in clause (ii).

**''SEC. 232. INFORMATION TO WORKERS AND OTHER AFFECTED PARTIES.**

''(a) IN GENERAL.—The Secretary shall, in accordance with the provisions of section 222 or 223, as appropriate, provide prompt and full information to adversely affected workers covered by a certification issued under section 231(c), including information regarding—

''(1) benefit allowances, training, and other employment services available under this chapter;

''(2) petition and application procedures under this chapter;

''(3) appropriate filing dates for the allowances, training, and services available under this chapter; and

''(4) procedures for applying for and receiving all other Federal benefits and services available to separated workers during a period of unemployment.

''(b) ASSISTANCE TO GROUPS OF WORKERS.—

''(1) IN GENERAL.—The Secretary shall provide any necessary assistance to enable groups of workers to prepare petitions or applications for program benefits.

''(2) ASSISTANCE FROM STATES.—The Secretary shall ensure that cooperating States

fully comply with the agreements entered into under section 222 and shall periodically review that compliance.

''(c) NOTICE.—

''(1) IN GENERAL.—Not later that 15 days after a certification is issued under section 231 (or as soon as practicable after separation), the Secretary shall provide written notice of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by the certification.

''(2) PUBLICATION OF NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under section 231 in newspapers of general circulation in the areas in which those workers reside.

''(3) NOTICE TO OTHER PARTIES AFFECTED BY THESE PROVISIONS REGARDING HEALTH ASSISTANCE.—The Secretary shall notify each provider of health insurance within the meaning of section 7527 of the Internal Revenue Code of 1986 of the availability of health care coverage assistance under title VI of the Trade Adjustment Assistance Reform Act of 2002 and of the temporary extension of the election period for COBRA continuation coverage for certain workers under section 603 of that Act.

**''SEC. 223. ADMINISTRATION ABSENT STATE AGREEMENT.**

''(a) IN GENERAL.—In any State in which there is no agreement in force under section 222, the Secretary shall arrange, under regulations prescribed by the Secretary, for the performance of all necessary functions under this chapter, including providing a hearing for any worker whose application for payment is denied.

''(b) FINALITY OF DETERMINATION.—A final determination under subsection (a) regarding entitlement to program benefits under this chapter is subject to review by the courts in the same manner and to the same extent as is provided by section 205(g) of the Social Security Act (42 U.S.C. 405(g)).

**''SEC. 224. DATA COLLECTION; EVALUATIONS; REPORTS.**

''(a) DATA COLLECTION.—The Secretary shall, pursuant to regulations prescribed by the Secretary, collect any data necessary to meet the requirements of this chapter.

''(b) PERFORMANCE EVALUATIONS.—The Secretary shall establish an effective performance measuring system to evaluate the following:

''(1) PROGRAM PERFORMANCE.—

''(A) speed of petition processing;

''(B) quality of petition processing;

''(C) cost of training programs;

''(D) coordination of programs under this title with programs under the Workforce Investment Act (29 U.S.C. 2801 et seq.);

''(E) length of time participants take to enter and complete training programs;

''(F) the effectiveness of individual contractors in providing appropriate retraining information;

''(G) the effectiveness of individual approved training programs in helping workers obtain employment;

''(H) best practices related to the provision of benefits and retraining; and

''(I) other data to evaluate how individual States are implementing the requirements of this title.

''(2) PARTICIPANT OUTCOMES.—

''(A) reemployment rates;

''(B) types of jobs in which displaced workers have been placed;

''(C) wage and benefit maintenance results;

''(D) training completion rates; and

''(E) other data to evaluate how effective programs under this chapter are for participants, taking into consideration current economic conditions in the State.

''(3) PROGRAM PARTICIPATION DATA.—

''(A) the number of workers receiving benefits and the type of benefits being received;

''(B) the number of workers enrolled in, and the duration of, training by major types of training;

''(C) earnings history of workers that reflects wages before separation and wages in any job obtained after receiving benefits under this Act;

''(D) the cause of dislocation identified in each certified petition;

''(E) the number of petitions filed and workers certified in each United States congressional district; and

''(F) the number of workers who received waivers under each category identified in section 235(c)(1) and the average duration of such waivers.

''(c) STATE PARTICIPATION.—The Secretary shall ensure, to the extent practicable, through oversight and effective internal control measures the following:

''(1) STATE PARTICIPATION.—Participation by each State in the performance measurement system established under subsection (b).

''(2) MONITORING.—Monitoring by each State of internal control measures with respect to performance measurement data collected by each State.

''(3) RESPONSE.—The quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)).

''(d) REPORTS.—

''(1) REPORTS BY THE SECRETARY.—

''(A) INITIAL REPORT.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that—

''(i) describes the performance measurement system established under subsection (b);

''(ii) includes analysis of data collected through the system established under subsection (b);

''(iii) includes information identifying the number of workers who received waivers under section 235(c) and the average duration of those during the preceding year;

''(iv) describes and analyzes State participation in the system;

''(v) analyzes the quality and speed of the rapid response provided by each State under section 134(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(a)(2)(A)); and

''(vi) provides recommendations for program improvements.

''(B) ANNUAL REPORT.—Not later than 1 year after the date the report is submitted under subparagraph (A), and annually thereafter, the Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report that includes the information collected under clauses (ii) through (v) of subparagraph (A).

''(2) STATE REPORTS.—Pursuant to regulations prescribed by the Secretary, each State shall submit to the Secretary a report that details its participation in the programs established under this chapter, and that contains the data necessary to allow the Secretary to submit the report required under paragraph (1).

''(3) PUBLICATION.—The Secretary shall make available to each State, and other public and private organizations as determined by the Secretary, the data gathered and evaluated through the performance measurement system established under paragraph (1).

**''SEC. 225. STUDY BY SECRETARY OF LABOR WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

''(a) NOTIFICATION OF INVESTIGATION.—Whenever the International Trade Commission begins an investigation under section 202 with respect to an industry, the Commission shall immediately notify the Secretary of that investigation, and the Secretary shall immediately begin a study of—

''(1) the number of workers in the domestic industry producing the like or directly competitive article who have been or are likely to be certified as eligible for adjustment assistance under this chapter; and

''(2) the extent to which the adjustment of those workers to the import competition may be facilitated through the use of existing programs.

''(b) REPORT.—

''(1) IN GENERAL.—The Secretary shall provide a report based on the study conducted under subsection (a) to the President not later than 15 days after the day on which the Commission makes its report under section 202(f).

''(2) PUBLICATION.—The Secretary shall promptly make public the report provided to the President under paragraph (1) (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

**''SEC. 226. REPORT BY SECRETARY OF LABOR ON LIKELY IMPACT OF TRADE AGREEMENTS.**

''(a) IN GENERAL.—At least 90 calendar days before the day on which the President enters into a trade agreement under section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002, the President shall provide the Secretary with details of the agreement as it exists at that time and direct the Secretary to prepare and submit the assessment described in subsection (b). Between the time the President instructs the Secretary to prepare the assessment under this section and the time the Secretary submits the assessment to Congress, the President shall keep the Secretary current with respect to the details of the agreement.

''(b) ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Secretary shall submit to the President, the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives, a report assessing the likely impact of the agreement on employment in the United States economy as a whole and in specific industrial sectors, including the extent of worker dislocations likely to result from implementation of the agreement. The report shall include an estimate of the financial and administrative resources necessary to provide trade adjustment assistance to all potentially adversely affected workers.

**''Subchapter B—Certifications**

**''SEC. 231. CERTIFICATION AS ADVERSELY AFFECTED WORKERS.**

''(a) ELIGIBILITY FOR CERTIFICATION.—

''(1) GENERAL RULE.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected workers and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and that either—

''(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

''(ii) the value or volume of imports of articles like or directly competitive with articles produced by that firm or subdivision have increased; and

''(iii) the increase in the value or volume of imports described in clause (ii) contributed importantly to the workers' separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

''(B) there has been a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by that firm or subdivision and the shift in production contributed importantly to the workers' separation or threat of separation.

''(2) ADVERSELY AFFECTED SECONDARY WORKER.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as adversely affected and eligible for trade adjustment assistance benefits under this chapter pursuant to a petition filed under subsection (b) if the Secretary determines that—

''(A) a significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

''(B) the workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under paragraph (1), and such supply or production is related to the article that was the basis for such certification (as defined in section 221 (11) and (24)); and

''(C) a loss of business by the workers' firm with the firm (or subdivision) described in subparagraph (B) contributed importantly to the workers' separation or threat of separation determined under subparagraph (A).

''(3) SPECIAL RULE FOR SECONDARY WORKERS.—Notwithstanding paragraph (2), the Secretary may, pursuant to standards established by the Secretary and for good cause shown, certify as eligible for trade adjustment assistance under this chapter a group of workers who meet the requirements for certification as adversely affected secondary workers in paragraph (2), except that the Secretary has not received a petition under paragraph (1) on behalf of workers at a firm to which the petitioning workers' firm is a supplier or downstream producer as defined in section 221 (11) and (24).

''(4) SPECIAL PROVISIONS.—

''(A) OIL AND NATURAL GAS PRODUCERS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

''(B) OIL AND NATURAL GAS IMPORTS.—For purposes of this section, any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.

''(C) TACONITE.—For purposes of this section, taconite pellets produced in the United States shall be considered to be an article that is like or directly competitive with imports of semifinished steel slab.

''(D) SERVICE WORKERS.—

''(i) IN GENERAL.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish a program to provide assistance under this chapter to domestic operators of motor carriers who are adversely affected by competition from foreign owned and operated motor carriers.

''(ii) DATA COLLECTION SYSTEM.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall put in place a system to collect data on adversely affected service workers that includes the number of workers by State, industry, and cause of dislocation for each worker.

''(iii) REPORT.—Not later than 2 years after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall report to Congress the results of a study on ways for extending the programs in this chapter to adversely affected service workers, including recommendations for legislation.

''(b) PETITIONS.—

''(1) IN GENERAL.—A petition for certification of eligibility for trade adjustment assistance under this chapter for a group of adversely affected workers shall be filed simultaneously with the Secretary and with the Governor of the State in which the firm or subdivision of the firm employing the workers is located.

''(2) PERSONS WHO MAY FILE A PETITION.—A petition under paragraph (1) may be filed by any of the following:

''(A) WORKERS.—A group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

''(B) WORKER REPRESENTATIVES.—The certified or recognized union or other duly appointed representative of the workers.

''(C) WORKER ADJUSTMENT AND RETRAINING NOTIFICATION.—Any entity to which notice of a plant closing or mass layoff must be given under section 3 of the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2102).

''(D) OTHER.—Employers of workers described in subparagraph (A), one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), or State employment agencies, on behalf of the workers.

''(E) REQUEST TO INITIATE CERTIFICATION.—The President, or the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives (by resolution), may petition the Secretary to initiate a certification process under this chapter to determine the eligibility for trade adjustment assistance of a group of workers.

''(3) ACTIONS BY GOVERNOR.—

''(A) COOPERATING STATE.—Upon receipt of a petition, the Governor of a cooperating State shall ensure that the requirements of the agreement entered into under section 222 are met.

''(B) OTHER STATES.—Upon receipt of a petition, the Governor of a State that has not entered into an agreement under section 222 shall coordinate closely with the Secretary to ensure that workers covered by a petition are—

''(i) provided with all available services, including rapid response activities under section 134 of the Workforce Investment Act (29 U.S.C. 2864);

''(ii) informed of the workers' (and individual member's of the worker's family) potential eligibility for—

''(I) medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396a et seq.);

''(II) child health assistance under the State children's health insurance program established under title XXI of that Act (42 U.S.C. 1397aa et seq.);

''(III) child care services for which assistance is provided under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.); and

''(IV) other Federal and State funded health care, child care, transportation, and assistance programs that the workers may be eligible for; and

''(iii) provided with information regarding how to apply for the assistance, services, and programs described in clause (ii).

''(c) ACTIONS BY SECRETARY.—

''(1) IN GENERAL.—As soon as possible after the date on which a petition is filed under subsection (b), but not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of subsection (a), and if warranted, shall issue a certification of eligibility for trade adjustment assistance pursuant to this subchapter. In making the determination, the Secretary shall consult with all petitioning entities.

''(2) PUBLICATION OF DETERMINATION.—Upon making a determination under paragraph (1), the Secretary shall promptly publish a summary of the determination in the Federal Register together with the reasons for making that determination.

''(3) DATE SPECIFIED IN CERTIFICATION.—Each certification made under this subsection shall specify the date on which the total or partial separation began or threatened to begin with respect to a group of certified workers.

''(4) PROJECTED TRAINING NEEDS.—The Secretary shall inform the State Workforce Investment Board or equivalent agency, and other public or private agencies, institutions, employers, and labor organizations, as appropriate, of each certification issued under section 231 and of projections, if available, of the need for training under section 240 as a result of that certification.

''(d) SCOPE OF CERTIFICATION.—

''(1) IN GENERAL.—A certification issued under subsection (c) shall cover adversely affected workers in any group that meets the requirements of subsection (a), whose total or partial separation occurred on or after the date on which the petition was filed under subsection (b).

''(2) WORKERS SEPARATED PRIOR TO CERTIFICATION.—A certification issued under subsection (c) shall cover adversely affected workers whose total or partial separation occurred not more than 1 year prior to the date on which the petition was filed under subsection (b).

''(e) TERMINATION OF CERTIFICATION.—

''(1) IN GENERAL.—If the Secretary determines, with respect to any certification of eligibility, that workers separated from a firm or subdivision covered by a certification of eligibility are no longer adversely affected workers, the Secretary shall terminate the certification.

''(2) PUBLICATION OF TERMINATION.—The Secretary shall promptly publish notice of any termination made under paragraph (1) in the Federal Register together with the reasons for making that determination.

''(3) APPLICATION.—Any determination made under paragraph (1) shall apply only to total or partial separations occurring after the termination date specified by the Secretary.

**''SEC. 232. BENEFIT INFORMATION TO WORKERS.**

''(a) IN GENERAL.—The Secretary shall, in accordance with the provisions of section 222 or 223, as appropriate, provide prompt and full information to adversely affected workers covered by a certification issued under section 231(c), including information regarding—

''(1) benefit allowances, training, and other employment services available under this chapter;

''(2) petition and application procedures under this chapter;

''(3) appropriate filing dates for the allowances, training, and services available under this chapter; and

''(4) procedures for applying for and receiving all other Federal benefits and services available to separated workers during a period of unemployment.

''(b) ASSISTANCE TO GROUPS OF WORKERS.—

''(1) IN GENERAL.—The Secretary shall provide any necessary assistance to enable groups of workers to prepare petitions or applications for program benefits.

''(2) ASSISTANCE FROM STATES.—The Secretary shall ensure that cooperating States fully comply with the agreements entered into under section 222 and shall periodically review that compliance.

''(c) NOTICE.—

''(1) IN GENERAL.—Not later that 15 days after a certification is issued under section 231 (or as soon as practicable after separation), the Secretary shall provide written notice of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by the certification.

''(2) PUBLICATION OF NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under section 231 in newspapers of general circulation in the areas in which those workers reside.

**"Subchapter C—Program Benefits**

**"PART I—GENERAL PROVISIONS**

**"SEC. 234. COMPREHENSIVE ASSISTANCE.**

''Workers covered by a certification issued by the Secretary under section 231 shall be eligible for the following:

''(1) Trade adjustment allowances as described in sections 235 through 238.

''(2) Employment services as described in section 239.

''(3) Training as described in section 240.

''(4) Job search allowances as described in section 241.

''(5) Relocation allowances as described in section 242.

''(6) Supportive services and wage insurance as described in section 243.

''(7) Health care coverage assistance under title VI of the Trade Adjustment Assistance Reform Act of 2002.

**"PART II—TRADE ADJUSTMENT ALLOWANCES**

**"SEC. 235. QUALIFYING REQUIREMENTS FOR WORKERS.**

''(a) IN GENERAL.—Payment of a trade adjustment allowance shall be made to an adversely affected worker covered by a certification under section 231 who files an application for the allowance for any week of unemployment that begins more than 60 days after the date on which the petition that resulted in the certification was filed under section 231, if the following conditions are met:

''(1) TIME OF TOTAL OR PARTIAL SEPARATION FROM EMPLOYMENT.—The adversely affected worker's total or partial separation before the worker's application under this chapter occurred—

''(A) within the period specified in either section 231 (d) (1) or (2);

''(B) before the expiration of the 2-year period beginning on the date on which the certification under section 231 was issued; and

''(C) before the termination date (if any) determined pursuant to section 231(e).

''(2) EMPLOYMENT REQUIRED.—

''(A) IN GENERAL.—The adversely affected worker had, in the 52-week period ending with the week in which the total or partial separation occurred, at least 26 weeks of employment at wages of $30 or more a week with a single firm or subdivision of a firm.

''(B) UNAVAILABILITY OF DATA.—If data with respect to weeks of employment with a firm are not available, the worker had equivalent amounts of employment computed under regulations prescribed by the Secretary.

''(C) WEEK OF EMPLOYMENT.—For the purposes of this paragraph any week shall be treated as a week of employment at wages of $30 or more, if an adversely affected worker—

''(i) is on employer-authorized leave for purposes of vacation, sickness, injury, or maternity, or inactive duty training or active duty for training in the Armed Forces of the United States;

''(ii) does not work because of a disability that is compensable under a workmen's compensation law or plan of a State or the United States;

''(iii) had employment interrupted in order to serve as a full-time representative of a labor organization in that firm or subdivision; or

''(iv) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided that active duty is 'Federal service' as defined in section 8521(a)(1) of title 5, United States Code.

''(D) EXCEPTIONS.—

''(i) In the case of weeks described in clause (i) or (iii) of subparagraph (C), or both, not more than 7 weeks may be treated as weeks of employment under subparagraph (C).

''(ii) In the case of weeks described in clause (ii) or (iv) of subparagraph (C), not more than 26 weeks may be treated as weeks of employment under subparagraph (C).

''(3) UNEMPLOYMENT COMPENSATION.—The adversely affected worker meets all of the following requirements:

''(A) ENTITLEMENT TO UNEMPLOYMENT INSURANCE.—The worker was entitled to (or would be entitled to if the worker applied for) unemployment insurance for a week within the benefit period—

''(i) in which total or partial separation took place; or

''(ii) which began (or would have begun) by reason of the filing of a claim for unemployment insurance by the worker after total or partial separation.

''(B) EXHAUSTION OF UNEMPLOYMENT INSURANCE.—The worker has exhausted all rights to any regular State unemployment insurance to which the worker was entitled (or would be entitled if the worker had applied for any regular State unemployment insurance).

''(C) NO UNEXPIRED WAITING PERIOD.—The worker does not have an unexpired waiting period applicable to the worker for any unemployment insurance.

''(4) EXTENDED UNEMPLOYMENT COMPENSATION.—The adversely affected worker, with respect to a week of unemployment, would not be disqualified for extended compensation payable under the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note) by reason of the work acceptance and job search requirements in section 202(a)(3) of that Act.

''(5) TRAINING.—The adversely affected worker is enrolled in a training program approved by the Secretary under section 240(a), and the enrollment occurred not later than the latest of the periods described in subparagraph (A), (B), or (C).

''(A) 16 WEEKS.—The worker enrolled not later than the last day of the 16th week after the worker's most recent total separation that meets the requirements of paragraphs (1) and (2).

''(B) 8 WEEKS.—The worker enrolled not later than the last day of the 8th week after the week in which the Secretary issues a certification covering the worker.

''(C) EXTENUATING CIRCUMSTANCES.—Notwithstanding subparagraphs (A) and (B), the adversely affected worker is eligible for trade adjustment assistance if the worker enrolled not later than 45 days after the later of the dates specified in subparagraph (A) or (B), and the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period.

''(b) FAILURE TO PARTICIPATE IN TRAINING.—

''(1) IN GENERAL.—Until the adversely affected worker begins or resumes participation in a training program approved under section 240(a), no trade adjustment allowance may be paid under subsection (a) to an adversely affected worker for any week or any succeeding week in which—

''(A) the Secretary determines that—

''(i) the adversely affected worker—

''(I) has failed to begin participation in a training program the enrollment in which meets the requirement of subsection (a)(5); or

''(II) has ceased to participate in such a training program before completing the training program; and

''(ii) there is no justifiable cause for the failure or cessation; or

''(B) the waiver issued to that worker under subsection (c)(1) is revoked under subsection (c)(2).

''(2) EXCEPTION.—The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment that begins before the first week following the week in which the certification is issued under section 231.

''(c) WAIVERS OF TRAINING REQUIREMENTS.—

''(1) ISSUANCE OF WAIVERS.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a) if the Secretary determines that the training requirement is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

''(A) RECALL.—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

''(B) MARKETABLE SKILLS.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there is a reasonable expectation of employment at equivalent wages in the foreseeable future.

''(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

''(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefore); or

''(ii) a private pension sponsored by an employer or labor organization.

''(D) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

''(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

''(F) TRAINING NOT AVAILABLE.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which

may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

''(G) OTHER.—The Secretary may, at his discretion, issue a waiver if the Secretary determines that a worker has set forth in writing reasons other than those provided for in subparagraphs (A) through (F) justifying the grant of such waiver.

''(2) DURATION OF WAIVERS.—

''(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

''(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker.

''(3) AMENDMENTS UNDER SECTION 222.—

''(A) ISSUANCE BY COOPERATING STATES.—Pursuant to an agreement under section 222, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

''(B) SUBMISSION OF STATEMENTS.—An agreement under section 222 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.

**''SEC. 236. WEEKLY AMOUNTS.**

''(a) IN GENERAL.—Subject to subsections (b) and (c), the trade adjustment allowance payable to an adversely affected worker for a week of total unemployment shall be an amount equal to the most recent weekly benefit amount of the unemployment insurance payable to the worker for a week of total unemployment preceding the worker's first exhaustion of unemployment insurance (as determined for purposes of section 235(a)(3)(B)) reduced (but not below zero) by—

''(1) any training allowance deductible under subsection (c); and

''(2) any income that is deductible from unemployment insurance under the disqualifying income provisions of the applicable State law or Federal unemployment insurance law.

''(b) ADJUSTMENT FOR WORKERS RECEIVING TRAINING.—

''(1) IN GENERAL.—Any adversely affected worker who is entitled to a trade adjustment allowance and who is receiving training approved by the Secretary, shall receive for each week in which the worker is undergoing that training, a trade adjustment allowance in an amount (computed for such week) equal to the greater of—

''(A) the amount computed under subsection (a); or

''(B) the amount of any weekly allowance for that training to which the worker would be entitled under any other Federal law for the training of workers, if the worker applied for that allowance.

''(2) ALLOWANCE PAID IN LIEU OF.—Any trade adjustment allowance calculated under paragraph (1) shall be paid in lieu of any training allowance to which the worker would be entitled under any other Federal law.

''(3) COORDINATION WITH UNEMPLOYMENT INSURANCE.—Any week in which a worker undergoing training approved by the Secretary receives payments from unemployment insurance shall be subtracted from the total number of weeks for which a worker may receive trade adjustment allowance under this chapter.

''(c) ADJUSTMENT FOR WORKERS RECEIVING ALLOWANCES UNDER OTHER FEDERAL LAW.—

''(1) REDUCTION IN WEEKS FOR WHICH ALLOWANCE WILL BE PAID.—If a training allowance under any Federal law (other than this Act) is paid to an adversely affected worker for any week of unemployment with respect to which the worker would be entitled (determined without regard to any disqualification under section 235(b)) to a trade adjustment allowance if the worker applied for that allowance, each week of unemployment shall be deducted from the total number of weeks of trade adjustment allowance otherwise payable to that worker under section 235(a) when the worker applies for a trade adjustment allowance and is determined to be entitled to the allowance.

''(2) PAYMENT OF DIFFERENCE.—If the training allowance paid to a worker for any week of unemployment is less than the amount of the trade adjustment allowance to which the worker would be entitled if the worker applied for the trade adjustment allowance, the worker shall receive, when the worker applies for a trade adjustment allowance and is determined to be entitled to the allowance, a trade adjustment allowance for that week equal to the difference between the training allowance and the trade adjustment allowance computed under subsection (b).

**''SEC. 237. LIMITATIONS ON TRADE ADJUSTMENT ALLOWANCES.**

''(a) AMOUNT PAYABLE.—The maximum amount of trade adjustment allowance payable to an adversely affected worker, with respect to the period covered by any certification, shall be the amount that is the product of 104 multiplied by the trade adjustment allowance payable to the worker for a week of total unemployment (as determined under section 236) reduced by the total sum of the regular State unemployment insurance to which the worker was entitled (or would have been entitled if the worker had applied for unemployment insurance) in the worker's first benefit period described in section 235(a)(3)(A).

''(b) DURATION OF PAYMENTS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a trade adjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated—

''(A) within the period that is described in section 235(a)(1); and

''(B) with respect to which the worker meets the requirements of section 235(a)(2).

''(2) SPECIAL RULES.—

''(A) BREAK IN TRAINING.—For purposes of this chapter, a worker shall be treated as participating in a training program approved by the Secretary under section 240(a) during any week that is part of a break in a training that does not exceed 30 days if—

''(i) the worker was participating in a training program approved under section 240(a) before the beginning of the break in training; and

''(ii) the break is provided under the training program.

''(B) ON-THE-JOB TRAINING.—No trade adjustment allowance shall be paid to a worker under this chapter for any week during which the worker is receiving on-the-job training, except that a trade adjustment allowance shall be paid if a worker is enrolled in a non-paid customized training program.

''(C) SMALL BUSINESS ADMINISTRATION PILOT PROGRAM.—An adversely affected worker who is participating in a self-employment training program established by the Director of the Small Business Administration pursuant to section 102 of the Trade Adjustment Assistance Reform Act of 2002, shall not be ineligible to receive benefits under this chapter.

''(c) ADJUSTMENT OF AMOUNTS PAYABLE.—Amounts payable to an adversely affected worker under this chapter shall be subject to adjustment on a week-to-week basis as may be required by section 236.

''(d) YEAR-END ADJUSTMENT.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or any other provision of law, if the benefit year of a worker ends within an extended benefit period, the number of weeks of extended benefits that the worker would, but for this subsection, be entitled to in that extended benefit period shall not be reduced by the number of weeks for which the worker was entitled, during that benefit year, to trade adjustment allowances under this part.

''(2) EXTENDED BENEFITS PERIOD.—For the purpose of this section the term 'extended benefit period' has the same meaning given that term in the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

**''SEC. 238. APPLICATION OF STATE LAWS.**

''(a) IN GENERAL.—Except where inconsistent with the provisions of this chapter and subject to such regulations as the Secretary may prescribe, the availability and disqualification provisions of the State law under which an adversely affected worker is entitled to unemployment insurance (whether or not the worker has filed a claim for such insurance), or, if the worker is not so entitled to unemployment insurance, of the State in which the worker was totally or partially separated, shall apply to a worker that files an application for trade adjustment assistance.

''(b) DURATION OF APPLICABILITY.—The State law determined to be applicable with respect to a separation of an adversely affected worker shall remain applicable for purposes of subsection (a), with respect to a separation until the worker becomes entitled to unemployment insurance under another State law (whether or not the worker has filed a claim for that insurance).

## ''PART III—EMPLOYMENT SERVICES, TRAINING, AND OTHER ALLOWANCES

**''SEC. 239. EMPLOYMENT SERVICES.**

''The Secretary shall, in accordance with section 222 or 223, as applicable, make every reasonable effort to secure for adversely affected workers covered by a certification under section 231, counseling, testing, placement, and other services provided for under any other Federal law.

**''SEC. 240. TRAINING.**

''(a) APPROVED TRAINING PROGRAMS.—

''(1) IN GENERAL.—The Secretary shall approve training programs that include—

''(A) on-the-job training or customized training;

''(B) any employment or training activity provided through a one-stop delivery system under chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.);

''(C) any program of adult education;

''(D) any training program (other than a training program described in paragraph (3)) for which all, or any portion, of the costs of training the worker are paid—

''(i) under any Federal or State program other than this chapter; or

''(ii) from any source other than this section; and

''(E) any other training program that the Secretary determines is acceptable to meet the needs of an adversely affected worker.

In making the determination under subparagraph (E), the Secretary shall consult with interested parties.

''(2) TRAINING AGREEMENTS.—Before approving any training to which subsection (f)(1)(C) may apply, the Secretary may require that the adversely affected worker

enter into an agreement with the Secretary under which the Secretary will not be required to pay under subsection (b) the portion of the costs of the training that the worker has reason to believe will be paid under the program, or by the source, described in clause (i) or (ii) of subsection (f)(1)(C).

''(3) LIMITATION ON APPROVALS.—The Secretary shall not approve a training program if all of the following apply:

''(A) PAYMENT BY PLAN.—Any portion of the costs of the training program are paid under any nongovernmental plan or program.

''(B) RIGHT TO OBTAIN.—The adversely affected worker has a right to obtain training or funds for training under that plan or program.

''(C) REIMBURSEMENT.—The plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under the training program, for any portion of the costs of that training program paid under the plan or program.

''(b) PAYMENT OF TRAINING COSTS.—

''(1) IN GENERAL.—Upon approval of a training program under subsection (a), and subject to the limitations imposed by this section, an adversely affected worker covered by a certification issued under section 231 may be eligible to have payment of the costs of that training, including any costs of an approved training program incurred by a worker before a certification was issued under section 231, made on behalf of the worker by the Secretary directly or through a voucher system.

''(2) ON-THE-JOB TRAINING AND CUSTOMIZED TRAINING.—

''(A) PROVISION OF TRAINING ON THE JOB OR CUSTOMIZED TRAINING.—If the Secretary approves training under subsection (a), the Secretary shall, insofar as possible, provide or assure the provision of that training on the job or customized training, and any training on the job or customized training that is approved by the Secretary under subsection (a) shall include related education necessary for the acquisition of skills needed for a position within a particular occupation.

''(B) MONTHLY INSTALLMENTS.—If the Secretary approves payment of any on-the-job training or customized training under subsection (a), the Secretary shall pay the costs of that training in equal monthly installments.

''(C) LIMITATIONS.—The Secretary may pay the costs of on-the-job training or customized training only if—

''(i) no employed worker is displaced by the adversely affected worker (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits);

''(ii) the training does not impair contracts for services or collective bargaining agreements;

''(iii) in the case of training that would affect a collective bargaining agreement, the written concurrence of the labor organization concerned has been obtained;

''(iv) no other individual is on layoff from the same, or any substantially equivalent, job for which the adversely affected worker is being trained;

''(v) the employer has not terminated the employment of any regular employee or otherwise reduced the workforce of the employer with the intention of filling the vacancy so created by hiring the adversely affected worker;

''(vi) the job for which the adversely affected worker is being trained is not being created in a promotional line that will infringe in any way upon the promotional opportunities of employed individuals;

''(vii) the training is not for the same occupation from which the worker was separated and with respect to which the worker's group was certified pursuant to section 231;

''(viii) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training;

''(ix) the employer has not received payment under subsection (b)(1) with respect to any other on-the-job training provided by the employer or customized training that failed to meet the requirements of clauses (i) through (vi); and

''(x) the employer has not taken, at any time, any action that violated the terms of any certification described in clause (viii) made by that employer with respect to any other on-the-job training provided by the employer or customized training for which the Secretary has made a payment under paragraph (1).

''(c) CERTAIN WORKERS ELIGIBLE FOR TRAINING BENEFITS.—An adversely affected worker covered by a certification issued under section 231, who is not qualified to receive a trade adjustment allowance under section 235, may be eligible to have payment of the costs of training made under this section, if the worker enters a training program approved by the Secretary not later than 6 months after the date on which the certification that covers the worker is issued or the Secretary determines that one of the following applied:

''(1) Funding was not available at the time at which the adversely affected worker was required to enter training under paragraph (1).

''(2) The adversely affected worker was covered by a waiver issued under section 235(c).

''(d) EXHAUSTION OF UNEMPLOYMENT INSURANCE NOT REQUIRED.—The Secretary may approve training, and pay the costs thereof, for any adversely affected worker who is a member of a group certified under section 231 at any time after the date on which the group is certified, without regard to whether the worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

''(e) SUPPLEMENTAL ASSISTANCE.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), when training is provided under a training program approved by the Secretary under subsection (a) in facilities that are not within commuting distance of a worker's regular place of residence, the Secretary may authorize supplemental assistance to defray reasonable transportation and subsistence expenses for separate maintenance.

''(2) TRANSPORTATION EXPENSES.—The Secretary may not authorize payments for travel expenses exceeding the prevailing mileage rate authorized under the Federal travel regulations.

''(3) SUBSISTENCE EXPENSES.—The Secretary may not authorize payments for subsistence that exceed the lesser of—

''(A) the actual per diem expenses for subsistence of the worker; or

''(B) an amount equal to 50 percent of the prevailing per diem allowance rate authorized under Federal travel regulations.

''(f) SPECIAL PROVISIONS; LIMITATIONS.—

''(1) LIMITATION ON MAKING PAYMENTS.—

''(A) DISALLOWANCE OF OTHER PAYMENT.—If the costs of training an adversely affected worker are paid by the Secretary under subsection (b), no other payment for those training costs may be made under any other provision of Federal law.

''(B) NO PAYMENT OF REIMBURSABLE COSTS.—No payment for the costs of approved training may be made under subsection (b) if those costs—

''(i) have already been paid under any other provision of Federal law; or

''(ii) are reimbursable under any other provision of Federal law and a portion of those costs has already been paid under that other provision of Federal law.

''(C) NO PAYMENT OF COSTS PAID ELSEWHERE.—The Secretary is not required to pay the costs of any training approved under subsection (a) to the extent that those costs are paid under any Federal or State program other than this chapter.

''(D) EXCEPTION.—The provisions of this paragraph shall not apply to, or take into account, any funds provided under any other provision of Federal law that are used for any purpose other than the direct payment of the costs incurred in training a particular adversely affected worker, even if the use of those funds has the effect of indirectly paying for or reducing any portion of the costs involved in training the adversely affected worker.

''(2) UNEMPLOYMENT ELIGIBILITY.—A worker may not be determined to be ineligible or disqualified for unemployment insurance or program benefits under this subchapter because the individual is in training approved under subsection (a), because of leaving work which is not suitable employment to enter the training, or because of the application to any week in training of provisions of State law or Federal unemployment insurance law relating to availability for work, active search for work, or refusal to accept work.

''(3) DEFINITION.—For purposes of this section the term 'suitable employment' means, with respect to a worker, work of a substantially equal or higher skill level than the worker's past adversely affected employment, and wages for such work at not less than 80 percent of the worker's average weekly wage.

''(4) PAYMENTS AFTER REEMPLOYMENT.—

''(A) IN GENERAL.—In the case of an adversely affected worker who secures reemployment, the Secretary may approve and pay the costs of training (or shall continue to pay the costs of training previously approved) for that adversely affected worker, for the completion of the training program or up to 26 weeks, whichever is less, after the date the adversely affected worker becomes reemployed.

''(B) TRADE ADJUSTMENT ALLOWANCE.—An adversely affected worker who is reemployed and is undergoing training approved by the Secretary pursuant to subparagraph (A) may continue to receive a trade adjustment allowance, subject to the income offsets provided for in the worker's State unemployment compensation law in accordance with the provisions of section 237.

''(5) FUNDING.—The total amount of payments that may be made under this section for any fiscal year shall not exceed $300,000,000.

**''SEC. 241. JOB SEARCH ALLOWANCES.**

''(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

''(1) IN GENERAL.—An adversely affected worker covered by a certification issued under section 231 may file an application with the Secretary for payment of a job search allowance.

''(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

''(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

''(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

''(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

''(i) the later of—

''(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

''(II) the 365th day after the date of the worker's last total separation; or

''(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 235(c).

''(b) AMOUNT OF ALLOWANCE.—

''(1) IN GENERAL.—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

''(2) MAXIMUM ALLOWANCE.—Reimbursement under this subsection may not exceed $1,250 for any worker.

''(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for subsistence and transportation expenses at levels exceeding those allowable under section 240(e).

''(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.

**''SEC. 242. RELOCATION ALLOWANCES.**

''(a) RELOCATION ALLOWANCE AUTHORIZED.—

''(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under section 231 may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

''(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

''(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

''(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

''(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

''(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

''(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

''(ii) has obtained a bona fide offer of such employment.

''(E) APPLICATION.—The worker filed an application with the Secretary before—

''(i) the later of—

''(I) the 425th day after the date of the certification under section 231; or

''(II) the 425th day after the date of the worker's last total separation; or

''(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 235(c).

''(b) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) includes—

''(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 240(e)) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker's family, and household effects; and

''(2) a lump sum equivalent to 3 times the worker's average weekly wage, up to a maximum payment of $1,250.

''(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

''(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

''(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 240(a).

**''SEC. 243. SUPPORTIVE SERVICES; WAGE INSURANCE.**

''(a) SUPPORTIVE SERVICES.—

''(1) APPLICATION.—

''(A) IN GENERAL.—The State may, on behalf of any adversely affected worker or group of workers covered by a certification issued under section 231—

''(i) file an application with the Secretary for services under section 173 of the Workforce Investment Act of 1998 (relating to National Emergency Grants); and

''(ii) provide other services under title I of the Workforce Investment Act of 1998.

''(B) SERVICES.—The services available under this paragraph include transportation, child care, and dependent care that are necessary to enable a worker to participate in activities authorized under this chapter.

''(2) CONDITIONS.—The Secretary may approve an application filed under paragraph (1)(A)(i) and provide supportive services to an adversely affected worker only if the Secretary determines that all of the following apply:

''(A) NECESSITY.—Providing services is necessary to enable the worker to participate in or complete training.

''(B) CONSISTENT WITH WORKFORCE INVESTMENT ACT.—The services are consistent with the supportive services provided to participants under the provisions relating to dislocated worker employment and training activities set forth in chapter 5 of subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2861 et seq.).

''(b) WAGE INSURANCE PROGRAM.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish a Wage Insurance Program under which a State shall use the funds provided to the State for trade adjustment allowances to pay to an adversely affected worker certified under section 231 a wage subsidy of up to 50 percent of the difference between the wages received by the adversely affected worker from reemployment and the wages received by the adversely affected worker at the time of separation for a period not to exceed 2 years.

''(2) AMOUNT OF PAYMENT.—

''(A) WAGES UNDER $40,000.—If the wages the worker receives from reemployment are less than $40,000 a year, the wage subsidy shall be 50 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation.

''(B) WAGES BETWEEN $40,000 AND $50,000.—If the wages received by the worker from reemployment are greater than $40,000 a year but less than $50,000 a year, the wage subsidy shall be 25 percent of the difference between the amount of the wages received by the worker from reemployment and the amount of the wages received by the worker at the time of separation.

''(3) ELIGIBILITY.—An adversely affected worker may be eligible to receive a wage subsidy under this subsection if the worker—

''(A) enrolls in the Wage Insurance Program;

''(B) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

''(C) is at least 50 years of age;

''(D) earns not more than $50,000 a year in wages from reemployment;

''(E) is employed at least 30 hours a week in the reemployment; and

''(F) does not return to the employment from which the worker was separated.

''(4) AMOUNT OF PAYMENTS.—The payments made under paragraph (1) to an adversely affected worker may not exceed $10,000 over the 2-year period.

''(5) LIMITATION ON OTHER BENEFITS.—At the time a worker begins to receive a wage subsidy under this subsection the worker shall not be eligible to receive any benefits under this Act other than the wage subsidy unless the Secretary determines, pursuant to standards established by the Secretary, that the worker has shown circumstances that warrant eligibility for training benefits under section 240.

''(6) FUNDING.—The total amount of payments that may be made under this subsection for any fiscal year shall not exceed $100,000,000.

''(c) STUDIES OF ASSISTANCE AVAILABLE TO ECONOMICALLY DISTRESSED WORKERS.—

''(1) STUDY BY THE GENERAL ACCOUNTING OFFICE.—

''(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study of all assistance provided by the Federal Government for workers facing job loss and economic distress.

''(B) REPORT.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Comptroller General shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under subparagraph (A). The report shall include a description of—

''(i) all Federal programs designed to assist workers facing job loss and economic distress, including all benefits and services;

''(ii) eligibility requirements for each of the programs; and

''(iii) procedures for applying for and receiving benefits and services under each of the programs.

''(C) DISTRIBUTION OF GAO REPORT.—The report described in subparagraph (B) shall be distributed to all one-stop partners authorized under the Workforce Investment Act of 1998.

''(2) STUDIES BY THE STATES.—

''(A) IN GENERAL.—Each State may conduct a study of its assistance programs for workers facing job loss and economic distress.

''(B) GRANTS.—The Secretary may award to each State a grant, not to exceed $50,000, to enable the State to conduct the study described in subparagraph (A). Each study shall be undertaken in consultation with affected parties.

''(C) REPORT.—Not later than 1 year after the date of the grant, each State that receives a grant under subparagraph (B) shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the report described in subparagraph (A).

''(D) DISTRIBUTION OF STATE REPORTS.—A report prepared by a State under this paragraph shall be distributed to all the one-stop partners in the State.

**''Subchapter D—Payment and Enforcement Provisions**

**''SEC. 244. PAYMENTS TO STATES.**

''(a) IN GENERAL.—The Secretary, from time to time, shall certify to the Secretary of the Treasury for payment to each cooperating State, the sums necessary to enable

that State as agent of the United States to make payments provided for by this chapter.

''(b) LIMITATION ON USE OF FUNDS.—

''(1) IN GENERAL.—All money paid to a cooperating State under this section shall be used solely for the purposes for which it is paid.

''(2) RETURN OF FUNDS NOT SO USED.—Money paid that is not used for the purpose for which it is paid under subsection (a) shall be returned to the Secretary of the Treasury at the time specified in the agreement entered into under section 222.

''(c) SURETY BOND.—Any agreement under section 222 may require any officer or employee of the cooperating State certifying payments or disbursing funds under the agreement or otherwise participating in the performance of the agreement, to give a surety bond to the United States in an amount the Secretary deems necessary, and may provide for the payment of the cost of that bond from funds for carrying out the purposes of this chapter.

**''SEC. 245. LIABILITIES OF CERTIFYING AND DISBURSING OFFICERS.**

''(a) LIABILITY OF CERTIFYING OFFICIALS.—No person designated by the Secretary, or designated pursuant to an agreement entered into under section 222, as a certifying officer, in the absence of gross negligence or intent to defraud the United States, shall be liable with respect to any payment certified by that person under this chapter.

''(b) LIABILITY OF DISBURSING OFFICERS.—No disbursing officer, in the absence of gross negligence or intent to defraud the United States, shall be liable with respect to any payment by that officer under this chapter if the payment was based on a voucher signed by a certifying officer designated according to subsection (a).

**''SEC. 246. FRAUD AND RECOVERY OF OVERPAYMENTS.**

''(a) IN GENERAL.—

''(1) OVERPAYMENT.—If a cooperating State, the Secretary, or a court of competent jurisdiction determines that any person has received any payment under this chapter to which the person was not entitled, including a payment referred to in subsection (b), that person shall be liable to repay that amount to the cooperating State or the Secretary, as the case may be.

''(2) EXCEPTION.—The cooperating State or the Secretary may waive repayment if the cooperating State or the Secretary determines, in accordance with guidelines prescribed by the Secretary, that all of the following apply:

''(A) NO FAULT.—The payment was made without fault on the part of the person.

''(B) REPAYMENT CONTRARY TO EQUITY.—Requiring repayment would be contrary to equity and good conscience.

''(3) PROCEDURE FOR RECOVERY.—

''(A) RECOVERY FROM OTHER ALLOWANCES AUTHORIZED.—Unless an overpayment is otherwise recovered or waived under paragraph (2), the cooperating State or the Secretary shall recover the overpayment by deductions from any sums payable to that person under this chapter, under any Federal unemployment compensation law administered by the cooperating State or the Secretary, or under any other Federal law administered by the cooperating State or the Secretary that provides for the payment of assistance or an allowance with respect to unemployment.

''(B) RECOVERY FROM STATE ALLOWANCES AUTHORIZED.—Notwithstanding any other provision of Federal or State law, the Secretary may require a cooperating State to recover any overpayment under this chapter by deduction from any unemployment insurance payable to that person under State law, except that no single deduction under this paragraph shall exceed 50 percent of the amount otherwise payable.

''(b) INELIGIBILITY FOR FURTHER PAYMENTS.—Any person, in addition to any other penalty provided by law, shall be ineligible for any further payments under this chapter if a cooperating State, the Secretary, or a court of competent jurisdiction determines that one of the following applies:

''(1) FALSE STATEMENT.—The person knowingly made, or caused another to make, a false statement or representation of a material fact, and as a result of the false statement or representation, the person received any payment under this chapter to which the person was not entitled.

''(2) FAILURE TO DISCLOSE.—The person knowingly failed, or caused another to fail, to disclose a material fact, and as a result of the nondisclosure, the person received any payment under this chapter to which the person was not entitled.

''(c) HEARING.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a) by the cooperating State or the Secretary, as the case may be, has been made, notice of the determination and an opportunity for a fair hearing has been given to the person concerned, and the determination has become final.

''(d) RECOVERED FUNDS.—Any amount recovered under this section shall be returned to the Treasury of the United States.

**''SEC. 247. CRIMINAL PENALTIES.**

''Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for that person or for any other person any payment authorized to be furnished under this chapter or pursuant to an agreement under section 222 shall be fined not more than $10,000, imprisoned for not more than 1 year, or both.

**''SEC. 248. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to the Department of Labor, for the period beginning October 1, 2001, and ending September 30, 2007, such sums as may be necessary to carry out the purposes of this chapter, including such additional sums for administrative expenses as may be necessary for the department to meet the increased workload created by the Trade Adjustment Assistance Reform Act of 2002, provided that funding provided for training services shall not be used for expenses of administering the trade adjustment assistance for workers program. Amounts appropriated under this section shall remain available until expended.

**''SEC. 249. REGULATIONS.**

''The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this chapter.

**''SEC. 250. SUBPOENA POWER.**

''(a) IN GENERAL.—The Secretary may require by subpoena the attendance of witnesses and the production of evidence necessary to make a determination under the provisions of this chapter.

''(b) COURT ORDER.—If a person refuses to obey a subpoena issued under subsection (a), a competent United States district court, upon petition by the Secretary, may issue an order requiring compliance with such subpoena.''.

**SEC. 112. DISPLACED WORKER SELF-EMPLOYMENT TRAINING PILOT PROGRAM.**

(a) ESTABLISHMENT.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Small Business Administration (in this section referred to as the ''Administrator'') shall establish a self-employment training program (in this section referred to as the ''Program'') for adversely affected workers (as defined in chapter 2 of title II of the Trade Act of 1974), to be administered by the Small Business Administration.

(b) ELIGIBILITY FOR ASSISTANCE.—If an adversely affected worker seeks or receives assistance through the Program, such action shall not affect the eligibility of that worker to receive benefits under chapter 2 of title II of the Trade Act of 1974.

(c) TRAINING ASSISTANCE.—The Program shall include, at a minimum, training in—

(1) pre-business startup planning;

(2) awareness of basic credit practices and credit requirements; and

(3) developing business plans, financial packages, and credit applications.

(d) OUTREACH.—The Program should include outreach to adversely affected workers and counseling and lending partners of the Small Business Administration.

(e) REPORTS TO CONGRESS.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator shall submit quarterly reports to the Committee on Finance and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Ways and Means and the Committee on Small Business of the House of Representatives regarding the implementation of the Program, including Program delivery, staffing, and administrative expenses related to such implementation.

(f) GUIDELINES.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue such guidelines as the Administrator determines to be necessary to carry out the Program.

(g) EFFECTIVE DATE.—The Program shall terminate 3 years after the date of final publication of guidelines under subsection (f).

## TITLE II—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

**SEC. 201. REAUTHORIZATION OF PROGRAM.**

(a) IN GENERAL.—Section 256(b) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

''(b) There are authorized to be appropriated to the Secretary $16,000,000 for each of fiscal years 2002 through 2007, to carry out the Secretary's functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.''.

(b) ELIGIBILITY CRITERIA.—Section 251(c) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended—

(1) by amending paragraph (1) to read as follows:

''(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated, and that either—

''(A)(i)(I) sales or production, or both, of the firm have decreased absolutely, or

''(II) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period for which data are available have decreased absolutely; and

''(ii) increases in the value or volume of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production; or

''(B) a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by that firm or

subdivision contributed importantly to the workers' separation or threat of separation.''; and

(2) in paragraph (2), by striking ''paragraph (1)(C)'' and inserting ''paragraph (1)''.

**TITLE III—TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES**

**SEC. 301. PURPOSE.**

The purpose of this title is to assist communities with economic adjustment through the integration of political and economic organizations, the coordination of Federal, State, and local resources, the creation of community-based development strategies, and the provision of economic transition assistance.

**SEC. 302. TRADE ADJUSTMENT ASSISTANCE FOR COMMUNITIES.**

Chapter 4 of title II of the Trade Act of 1974 (19 U.S.C. 2371 et seq.) is amended to read as follows:

**''CHAPTER 4—COMMUNITY ECONOMIC ADJUSTMENT**

**''SEC. 271. DEFINITIONS.**

''In this chapter:

''(1) CIVILIAN LABOR FORCE.—The term 'civilian labor force' has the meaning given that term in regulations prescribed by the Secretary of Labor.

''(2) COMMUNITY.—The term 'community' means a county or equivalent political subdivision of a State.

''(A) RURAL COMMUNITY.—The term 'rural community' means a community that has a rural-urban continuum code of 4 through 9.

''(B) URBAN COMMUNITY.—The term 'urban community' means a community that has a rural-urban continuum code of 0 through 3.

''(3) COMMUNITY ECONOMIC DEVELOPMENT COORDINATING COMMITTEE.—The term 'Community Economic Development Coordinating Committee' means a community group established under section 274 that consists of major groups significantly affected by an increase in imports or a shift in production, including local, regional, tribal, and State governments, regional councils of governments and economic development, and business, labor, education, health, religious, and other community-based organizations.

''(4) DIRECTOR.—The term 'Director' means the Director of the Office of Community Trade Adjustment.

''(5) ELIGIBLE COMMUNITY.—The term 'eligible community' means a community certified under section 273 as eligible for assistance under this chapter.

''(6) JOB LOSS.—The term 'job loss' means the total or partial separation of an individual, as those terms are defined in section 221.

''(7) OFFICE.—The term 'Office' means the Office of Community Trade Adjustment established under section 272.

''(8) RURAL-URBAN CONTINUUM CODE.—The term 'rural-urban continuum code' means a code assigned to a community according to the rural-urban continuum code system, as defined by the Economic Research Service of the Department of Agriculture.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

**''SEC. 272. OFFICE OF COMMUNITY TRADE ADJUSTMENT.**

''(a) ESTABLISHMENT.—Within 6 months of the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, there shall be established in the Office of Economic Adjustment of the Economic Development Administration of the Department of Commerce an Office of Community Trade Adjustment.

''(b) PERSONNEL.—The Office shall be headed by a Director, and shall have such staff as may be necessary to carry out the responsibilities described in this chapter.

''(c) COORDINATION OF FEDERAL RESPONSE.—The Office shall—

''(1) provide leadership, support, and coordination for a comprehensive management program to address economic dislocation in eligible communities;

''(2) establish an easily accessible, one-stop clearinghouse for States and eligible communities to obtain information regarding economic development assistance available under Federal law;

''(3) coordinate the Federal response to an eligible community—

''(A) by identifying all Federal, State, and local resources that are available to assist the eligible community in recovering from economic distress;

''(B) by ensuring that all Federal agencies offering assistance to an eligible community do so in a targeted, integrated manner that ensures that an eligible community has access to all available Federal assistance;

''(C) by assuring timely consultation and cooperation between Federal, State, and regional officials concerning community economic adjustment;

''(D) by identifying and strengthening existing agency mechanisms designed to assist communities in economic adjustment and workforce reemployment;

''(E) by applying consistent policies, practices, and procedures in the administration of Federal programs that are used to assist communities adversely impacted by an increase in imports or a shift in production;

''(F) by creating, maintaining, and using a uniform economic database to analyze community adjustment activities; and

''(G) by assigning a community economic adjustment advisor to work with each eligible community;

''(4) provide comprehensive technical assistance to any eligible community in the efforts of that community to—

''(A) identify serious economic problems in the community that result from an increase in imports or shift in production;

''(B) integrate the major groups and organizations significantly affected by the economic adjustment;

''(C) organize a Community Economic Development Coordinating Committee;

''(D) access Federal, State, and local resources designed to assist in economic development and trade adjustment assistance;

''(E) diversify and strengthen the community economy; and

''(F) develop a community-based strategic plan to address workforce dislocation and economic development;

''(5) establish specific criteria for submission and evaluation of a strategic plan submitted under section 276(d);

''(6) administer the grant programs established under sections 276 and 277; and

''(7) establish an interagency Trade Adjustment Assistance Working Group, consisting of the representatives of any Federal department or agency with responsibility for economic adjustment assistance, including the Department of Agriculture, the Department of Defense, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the Department of Commerce, the Office of the United States Trade Representative, and the National Economic Council.

''(d) WORKING GROUP.—The working group established under subsection (c)(7) shall examine other options for addressing trade impacts on communities, such as:

''(1) Seeking legislative language directing the Foreign Trade Zone ('FTZ') Board to expedite consideration of FTZ applications from communities or businesses that have been found eligible for trade adjustment assistance.

''(2) Seeking legislative language to make new markets tax credits available in communities impacted by trade.

''(3) Seeking legislative language to make work opportunity tax credits available for hiring unemployed workers who are certified eligible for trade adjustment assistance.

''(4) Examining ways to assist trade impacted rural communities and industries take advantage of the Department of Agriculture's rural development program.

**''SEC. 273. NOTIFICATION AND CERTIFICATION AS AN ELIGIBLE COMMUNITY.**

''(a) NOTIFICATION.—The Secretary of Labor, not later than 15 days after making a determination that a group of workers is eligible for trade adjustment assistance under section 231, shall notify the Governor of the State in which the community in which the worker's firm is located and the Director, of the Secretary's determination.

''(b) CERTIFICATION.—Not later than 30 days after notification by the Secretary of Labor described in subsection (a), the Director shall certify as eligible for assistance under this chapter a community in which both of the following conditions applies:

''(1) NUMBER OF JOB LOSSES.—The Director finds that—

''(A) in an urban community, at least 500 workers have been certified for assistance under section 231 in the most recent 36-month period preceding the date of certification under this section for which data are available; or

''(B) in a rural community, at least 300 workers have been certified for assistance under section 231 in the most recent 36-month period preceding the date of certification under this section for which data are available.

''(2) PERCENT OF WORKFORCE UNEMPLOYED.—The Director finds that the unemployment rate for the community is at least 1 percent greater than the national unemployment rate for the most recent 12-month period for which data are available.

''(c) NOTIFICATION TO ELIGIBLE COMMUNITIES.—Not later than 15 days after the Director certifies a community as eligible under subsection (b), the Director shall notify the community—

''(1) of its determination under subsection (b);

''(2) of the provisions of this chapter;

''(3) how to access the clearinghouse established under section 272(c)(2); and

''(4) how to obtain technical assistance provided under section 272(c)(4).

**''SEC. 274. COMMUNITY ECONOMIC DEVELOPMENT COORDINATING COMMITTEE.**

''(a) ESTABLISHMENT.—In order to apply for and receive benefits under this chapter, an eligible community shall establish a Community Economic Development Coordinating Committee certified by the Director as meeting the requirements of subsection (b)(1).

''(b) COMPOSITION OF THE COMMITTEE.—

''(1) LOCAL PARTICIPATION.—The Community Economic Development Coordinating Committee established by an eligible community under subsection (a) shall include representatives of those groups significantly affected by economic dislocation, such as local, regional, tribal, and State governments, regional councils of governments and economic development, business, labor, education, health organizations, religious, and other community-based groups providing assistance to workers, their families, and communities.

''(2) FEDERAL PARTICIPATION.—Pursuant to section 275(b)(3), the community economic adjustment advisor, assigned by the Director to assist an eligible community, shall serve

as an ex officio member of the Community Economic Development Coordinating Committee, and shall arrange for participation by representatives of other Federal agencies on that Committee as necessary.

''(3) EXISTING ORGANIZATION.—An eligible community may designate an existing organization in that community as the Community Economic Development Coordinating Committee if that organization meets the requirements of paragraph (1) for the purposes of this chapter.

''(c) DUTIES.—The Community Economic Development Coordinating Committee shall—

''(1) ascertain the severity of the community economic adjustment required as a result of the increase in imports or shift in production;

''(2) assess the capacity of the community to respond to the required economic adjustment and the needs of the community as it undertakes economic adjustment, taking into consideration such factors as the number of jobs lost, the size of the community, the diversity of industries, the skills of the labor force, the condition of the current labor market, the availability of financial resources, the quality and availability of educational facilities, the adequacy and availability of public services, and the existence of a basic and advanced infrastructure in the community;

''(3) facilitate a dialogue between concerned interests in the community, represent the impacted community, and ensure all interests in the community work collaboratively toward collective goals without duplication of effort or resources;

''(4) oversee the development of a strategic plan for community economic development, taking into consideration the factors mentioned under paragraph (2), and consistent with the criteria established by the Secretary for the strategic plan developed under section 276;

''(5) create an executive council of members of the Community Economic Development Coordinating Committee to promote the strategic plan within the community and ensure coordination and cooperation among all stakeholders; and

''(6) apply for any grant, loan, or loan guarantee available under Federal law to develop or implement the strategic plan, and be an eligible recipient for funding for economic adjustment for that community.

**''SEC. 275. COMMUNITY ECONOMIC ADJUSTMENT ADVISORS.**

''(a) IN GENERAL.—Pursuant to section 272(c)(3)(G), the Director shall assign a community economic adjustment advisor to each eligible community.

''(b) DUTIES.—The community economic adjustment advisor shall—

''(1) provide technical assistance to the eligible community, assist in the development and implementation of a strategic plan, including applying for any grant available under this or any other Federal law to develop or implement that plan;

''(2) at the local and regional level, coordinate the response of all Federal agencies offering assistance to the eligible community;

''(3) serve as an ex officio member of the Community Economic Development Coordinating Committee established by an eligible community under section 274;

''(4) act as liaison between the Community Economic Development Coordinating Committee established by the eligible community and all other Federal agencies that offer assistance to eligible communities, including the Department of Agriculture, the Department of Defense, the Department of Education, the Department of Labor, the Department of Housing and Urban Development, the Department of Health and Human Services, the Small Business Administration, the Department of the Treasury, the National Economic Council, and other offices or agencies of the Department of Commerce;

''(5) report regularly to the Director regarding the progress of development activities in the community to which the community economic adjustment advisor is assigned; and

''(6) perform other duties as directed by the Secretary or the Director.

**''SEC. 276. STRATEGIC PLANS.**

''(a) IN GENERAL.—With the assistance of the community economic adjustment advisor, an eligible community may develop a strategic plan for community economic adjustment and diversification.

''(b) REQUIREMENTS FOR STRATEGIC PLAN.—A strategic plan shall contain, at a minimum, the following:

''(1) A description and justification of the capacity for economic adjustment, including the method of financing to be used, the anticipated management structure of the Community Economic Development Coordinating Committee, and the commitment of the community to the strategic plan over the long term.

''(2) A description of, and a plan to accomplish, the projects to be undertaken by the eligible community.

''(3) A description of how the plan and the projects to be undertaken by the eligible community will lead to job creation and job retention in the community.

''(4) A description of any alternative development plans that were considered, particularly less costly alternatives, and why those plans were rejected in favor of the proposed plan.

''(5) A description of any additional steps the eligible community will take to achieve economic adjustment and diversification, including how the plan and the projects will contribute to establishing or maintaining a level of public services necessary to attract and retain economic investment.

''(6) A description and justification for the cost and timing of proposed basic and advanced infrastructure improvements in the eligible community.

''(7) A description of the occupational and workforce conditions in the eligible community, including but not limited to existing levels of workforce skills and competencies, and educational programs available for workforce training and future employment needs.

''(8) A description of how the plan will adapt to changing markets, business cycles, and other variables.

''(9) A graduation strategy through which the eligible community demonstrates that the community will terminate the need for Federal assistance.

''(c) GRANTS TO DEVELOP STRATEGIC PLANS.—

''(1) IN GENERAL.—The Director, upon receipt of an application from a Community Economic Development Coordinating Committee on behalf of an eligible community, shall award a grant to that community to be used to develop the strategic plan.

''(2) AMOUNT.—The amount of a grant made under paragraph (1) shall be determined by the Secretary, but may not exceed $50,000 to each community.

''(3) LIMIT.—Each community can only receive 1 grant under this subsection for the purpose of developing a strategic plan in any 5-year period.

''(d) SUBMISSION OF PLAN.—A strategic plan developed under subsection (a) shall be submitted to the Director for evaluation and approval.

**''SEC. 277. GRANTS FOR ECONOMIC DEVELOPMENT.**

''The Director, upon receipt of an application from the Community Economic Development Coordinating Committee on behalf of an eligible community, may award a grant to that community to carry out any project or program included in the strategic plan approved under section 276(d) that—

''(1) will be located in, or will create or preserve high-wage jobs, in that eligible community; and

''(2) implements the strategy of that eligible community to create high-wage jobs in sectors that are expected to expand, including projects that—

''(A) encourage industries to locate in that eligible community, if such funds are not used to encourage the relocation of any employer in a manner that causes the dislocation of employees of that employer at another facility in the United States;

''(B) leverage resources to create or improve Internet or telecommunications capabilities to make the community more attractive for business;

''(C) establish a funding pool for job creation through entrepreneurial activities;

''(D) assist existing firms in that community to restructure or retool to become more competitive in world markets and prevent job loss; or

''(E) assist the community in acquiring the resources and providing the level of public services necessary to meet the objectives set out in the strategic plan.

**''SEC. 278. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to the Department of Commerce, for the period beginning October 1, 2001, and ending September 30, 2007, such sums as may be necessary to carry out the purposes of this chapter.

**''SEC. 279. GENERAL PROVISIONS.**

''(a) REPORT BY THE DIRECTOR.—Not later than 6 months after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, and annually thereafter, the Director shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report regarding the programs established under this title.

''(b) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out the provisions of this chapter.

''(c) SUPPLEMENT NOT SUPPLANT.—Funds appropriated under this chapter shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide economic development assistance for communities.''.

## TITLE IV—TRADE ADJUSTMENT ASSISTANCE FOR FARMERS

**SEC. 401. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.**

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following new chapter:

### ''CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

**''SEC. 291. DEFINITIONS.**

''In this chapter:

''(1) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity (including livestock), except fish as defined in section 299(1) of this Act, in its raw or natural state.

''(2) AGRICULTURAL COMMODITY PRODUCER.—The term 'agricultural commodity producer' has the same meaning as the term 'person' as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)). The term does not include any person described in section 299(2) of this Act.

''(3) CONTRIBUTED IMPORTANTLY.—

''(A) IN GENERAL.—The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

''(B) DETERMINATION OF CONTRIBUTED IMPORTANTLY.—The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

''(4) DULY AUTHORIZED REPRESENTATIVE.—The term 'duly authorized representative' means an association of agricultural commodity producers.

''(5) NATIONAL AVERAGE PRICE.—The term 'national average price' means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

**''SEC. 292. PETITIONS; GROUP ELIGIBILITY.**

''(a) IN GENERAL.—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

''(b) HEARINGS.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

''(c) GROUP ELIGIBILITY REQUIREMENTS.—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

''(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for the 5 marketing years preceding the most recent marketing year; and

''(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

''(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—A group of agricultural commodity producers certified as eligible under section 293 shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

''(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

''(2) the requirements of subsection (c)(2) are met.

''(e) DETERMINATION OF QUALIFIED YEAR AND COMMODITY.—In this chapter:

''(1) QUALIFIED YEAR.—The term 'qualified year', with respect to a group of agricultural commodity producers certified as eligible under section 293, means each consecutive year after the year in which the group is certified that the Secretary makes the determination under subsection (c) or (d), as the case may be.

''(2) CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 296.

**''SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.**

''(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 292 (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

''(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary's reasons for making the determination.

''(c) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

**''SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

''(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

''(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

''(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

''(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study described in subsection (a). Upon making the report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

**''SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS.**

''(a) IN GENERAL.—The Secretary shall provide full information to producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

''(b) NOTICE OF BENEFITS.—

''(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this chapter.

''(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to agricultural commodity producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

''(3) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.

**''SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS.**

''(a) IN GENERAL.—

''(1) REQUIREMENTS.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 293, if the following conditions are met:

''(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

''(B) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

''(C) The producer's net farm income (as determined by the Secretary) for the most recent year is less than the producer's net farm income for the latest year in which no adjustment assistance was received by the producer under this chapter.

''(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

''(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

''(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

''(2) LIMITATION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this chapter, an agricultural commodity producer shall not be eligible for assistance under this chapter in any year in which the average adjusted gross income of the producer exceeds $2,500,000.

''(B) CERTIFICATION.—To comply with the limitation under subparagraph (A), an individual or entity shall provide to the Secretary—

''(i) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed $2,500,000; or

''(ii) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

''(C) DEFINITIONS.—In this subsection:

''(i) ADJUSTED GROSS INCOME.—The term 'adjusted gross income' means adjusted gross income of an agricultural commodity producer—

''(I) as defined in section 62 of the Internal Revenue Code of 1986 and implemented in accordance with procedures established by the Secretary; and

''(II) that is earned directly or indirectly from all agricultural and nonagricultural sources of an individual or entity for a fiscal or corresponding crop year.

''(ii) AVERAGE ADJUSTED GROSS INCOME.—

''(I) IN GENERAL.—The term 'average adjusted gross income' means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

''(II) EFFECTIVE ADJUSTED GROSS INCOME.—In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

''(b) AMOUNT OF CASH BENEFITS.—

''(1) IN GENERAL.—Subject to the provisions of section 298, an adversely affected agricultural commodity producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

''(A) one-half of the difference between—

''(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year, and

''(ii) the national average price of the agricultural commodity for the most recent marketing year, and

''(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

''(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

''(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed $10,000.

''(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive a cash benefit under this chapter—

''(1) shall not be eligible for any other cash benefit under this title, and

''(2) shall be entitled to employment services and training benefits under part III of subchapter C of chapter 2.

**''SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.**

''(a) IN GENERAL.—

''(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

''(A) the payment was made without fault on the part of such person; and

''(B) requiring such repayment would be contrary to equity and good conscience.

''(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

''(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

''(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

''(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

''(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

''(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

''(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

''(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.

''(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

**''SEC. 298. AUTHORIZATION OF APPROPRIATIONS.**

''(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed $90,000,000 for each of the fiscal years 2002 through 2007 to carry out the purposes of this chapter.

''(b) PROPORTIONATE REDUCTION.—If in any year, the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.''.

(b) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act.

## TITLE V—TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN

**SEC. 501. TRADE ADJUSTMENT ASSISTANCE FOR FISHERMEN.**

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.), as amended by title IV of this Act, is amended by adding at the end the following new chapter:

## ''CHAPTER 7—ADJUSTMENT ASSISTANCE FOR FISHERMEN

**''SEC. 299. DEFINITIONS.**

''In this chapter:

''(1) COMMERCIAL FISHING, FISH, FISHERY, FISHING, FISHING VESSEL, PERSON, AND UNITED STATES FISH PROCESSOR.—The terms 'commercial fishing', 'fish', 'fishery', 'fishing', 'fishing vessel', 'person', and 'United States fish processor' have the same meanings as such terms have in the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

''(2) PRODUCER.—The term 'producer' means any person who—

''(A) is engaged in commercial fishing; or

''(B) is a United States fish processor.

''(3) CONTRIBUTED IMPORTANTLY.—

''(A) IN GENERAL.—The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

''(B) DETERMINATION OF CONTRIBUTED IMPORTANTLY.—The determination of whether imports of articles like or directly competitive with a fish caught through commercial fishing or processed by a United States fish processor with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the fish shall be made by the Secretary.

''(4) DULY AUTHORIZED REPRESENTATIVE.—The term 'duly authorized representative' means an association of producers.

''(5) NATIONAL AVERAGE PRICE.—The term 'national average price' means the national average price paid to a producer for fish in a marketing year as determined by the Secretary.

''(6) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

''(7) TRADE ADJUSTMENT ASSISTANCE CENTER.—The term 'Trade Adjustment Assistance Center' shall have the same meaning as such term has in section 253.

**''SEC. 299A. PETITIONS; GROUP ELIGIBILITY.**

''(a) IN GENERAL.—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

''(b) HEARINGS.—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary's publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

''(c) GROUP ELIGIBILITY REQUIREMENTS.—The Secretary shall certify a group of producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

''(1) that the national average price for the fish, or a class of fish, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such fish, or such class of fish, for the 5 marketing years preceding the most recent marketing year; and

''(2) that increases in imports of articles like or directly competitive with the fish, or class of fish, produced by the group contributed importantly to the decline in price described in paragraph (1).

''(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—A group of producers certified as eligible under section 299B shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

''(1) the national average price for the fish, or class of fish, produced by the group for the most recent marketing year for which the national average price is available is equal

to or less than the price determined under subsection (c)(1); and

''(2) the requirements of subsection (c)(2) are met.

''(e) DETERMINATION OF QUALIFIED YEAR AND COMMODITY.—In this chapter:

''(1) QUALIFIED YEAR.—The term 'qualified year', with respect to a group of producers certified as eligible under section 299B, means each consecutive year after the year in which the group is certified that the Secretary makes the determination under subsection (c) or (d), as the case may be.

''(2) CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of fish, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 299E.

**''SEC. 299B. DETERMINATIONS BY SECRETARY.**

''(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 299A, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 299A (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

''(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary's reasons for making the determination.

''(c) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the fish covered by the certification is no longer attributable to the conditions described in section 299A, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary's reasons for making such determination.

**''SEC. 299C. STUDY BY SECRETARY WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION.**

''(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the 'Commission') begins an investigation under section 202 with respect to a fish, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

''(1) the number of producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

''(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

''(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study under subsection (a). Upon making his report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of it published in the Federal Register.

**''SEC. 299D. BENEFIT INFORMATION TO PRODUCERS.**

''(a) IN GENERAL.—The Secretary shall provide full information to producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

''(b) NOTICE OF BENEFITS.—

''(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each producer that the Secretary has reason to believe is covered by a certification made under this chapter.

''(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

**''SEC. 299E. QUALIFYING REQUIREMENTS FOR PRODUCERS.**

''(a) IN GENERAL.—Payment of a trade adjustment allowance shall be made to an adversely affected producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination and issues a certification of eligibility under section 299B, if the following conditions are met:

''(1) The producer submits to the Secretary sufficient information to establish the amount of fish covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

''(2) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

''(3) The producer's net fishing or processing income (as determined by the Secretary) for the most recent year is less than the producer's net fishing or processing income for the latest year in which no adjustment assistance was received by the producer under this chapter.

''(4) The producer certifies that—

''(A) the producer has met with an employee or agent from a Trade Adjustment Assistance Center to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected fish, including—

''(i) information regarding the feasibility and desirability of substituting 1 or more alternative fish for the adversely affected fish; and

''(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected fish by the producer, including yield and marketing improvements; and

''(B) none of the benefits will be used to purchase, lease, or finance any new fishing vessel, add capacity to any fishery, or otherwise add to the overcapitalization of any fishery.

''(b) AMOUNT OF CASH BENEFITS.—

''(1) IN GENERAL.—Subject to the provisions of section 299G, an adversely affected producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

''(A) one-half of the difference between—

''(i) an amount equal to 80 percent of the average of the national average price of the fish covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year; and

''(ii) the national average price of the fish for the most recent marketing year; and

''(B) the amount of the fish produced by the producer in the most recent marketing year.

''(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the fish shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification. A producer shall only be eligible for benefits for subsequent qualified years if the Secretary or his designee determines that sufficient progress has been made implementing the plans developed under section 299E(a)(4) of this title.

''(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits a producer may receive in any 12-month period shall not exceed $10,000.

''(d) LIMITATIONS ON OTHER ASSISTANCE.—A producer entitled to receive a cash benefit under this chapter—

''(1) shall not be eligible for any other cash benefit under this title, and

''(2) shall be entitled to employment services and training benefits under part III of subchapter C of chapter 2.

**''SEC. 299F. FRAUD AND RECOVERY OF OVERPAYMENTS.**

''(a) IN GENERAL.—

''(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

''(A) the payment was made without fault on the part of such person; and

''(B) requiring such repayment would be contrary to equity and good conscience.

''(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

''(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

''(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

''(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

''(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

''(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

''(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

''(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.

''(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person

any payment authorized to be furnished under this chapter shall be fined not more than $10,000 or imprisoned for not more than 1 year, or both.

**"SEC. 299G. AUTHORIZATION OF APPROPRIATIONS.**

''(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Commerce not to exceed $10,000,000 for each of the fiscal years 2002 through 2007 to carry out the purposes of this chapter.

''(b) PROPORTIONATE REDUCTION.—If in any year, the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.''.

(b) EFFECTIVE DATE.—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act.

**TITLE VI—HEALTH CARE COVERAGE OPTIONS FOR WORKERS ELIGIBLE FOR TRADE ADJUSTMENT ASSISTANCE**

**SEC. 601. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to abatements, credits, and refunds) is amended by inserting after section 6428 the following new section:

**"SEC. 6429. TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

''(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 73 percent of the amount paid during the taxable year for coverage for the taxpayer, the taxpayer's spouse, and dependents of the taxpayer under qualified health insurance during eligible coverage months.

''(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible coverage month' means any month if, as of the first day of such month—

''(A) the taxpayer is an eligible individual,

''(B) the taxpayer is covered by qualified health insurance,

''(C) the premium for coverage under such insurance for such month is paid by the taxpayer, and

''(D) in the case of a taxpayer who is an eligible individual described in subsection (c)(1), the taxpayer does not have other specified coverage.

''(2) SPECIAL RULES.—

''(A) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1) shall be treated as met if at least 1 spouse satisfies such requirements.

''(B) EXCLUSION OF MONTHS IN WHICH INDIVIDUAL IS IMPRISONED.—Such term shall not include any month with respect to an individual if, as of the first day of such month, such individual is imprisoned under Federal, State, or local authority.

''(3) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an eligible individual described in subsection (c)(1) has other specified coverage for any month if, as of the first day of such month—

''(A) SUBSIDIZED COVERAGE.—

''(i) IN GENERAL.—Such individual is covered under any qualified health insurance under which at least 50 percent of the cost of coverage (determined under section 4980B) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer's spouse.

''(ii) TREATMENT OF CAFETERIA PLANS AND FLEXIBLE SPENDING ACCOUNTS.—For purposes of clause (i), the cost of benefits—

''(I) which are chosen under a cafeteria plan (as defined in section 125(d)), or provided under a flexible spending or similar arrangement, of such an employer, and

''(II) which are not includible in gross income under section 106,

shall be treated as borne by such employer.

''(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(C) CERTAIN OTHER COVERAGE.—Such individual—

''(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code,

''(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code,

''(iii) is entitled to receive benefits under chapter 17 of title 38, United States Code, or

''(iv) is eligible for benefits under the Indian Health Care Improvement Act.

''(4) SPECIAL RULE.—For purposes of this subsection, an individual does not have other specified coverage for any month if such coverage is under a qualified long-term care insurance contract (as defined in section 7702B(b)(1)).

''(c) ELIGIBLE INDIVIDUAL.—

''(1) IN GENERAL.—For purposes of this section, the term 'eligible individual' means an individual who is qualified to receive payment of a trade adjustment allowance under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002.

''(2) STEELWORKER RETIREES.—Such term includes an individual not described in paragraph (1) who would have been eligible to be certified as an eligible retiree or eligible beneficiary for purposes of participating in the Steel Industry Retiree Benefits Protection program under the Trade Act of 1974, as amended by S.2189, as introduced on April 17, 2002.

''(d) QUALIFIED HEALTH INSURANCE.—For purposes of this section, the term 'qualified health insurance' means health insurance coverage described under section 173(f) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(f)).

''(e) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—

''(1) RECAPTURE OF EXCESS ADVANCE PAYMENTS.—If any payment is made by the Secretary under section 7527 during any calendar year to a provider of qualified health insurance for an individual, then the tax imposed by this chapter for the individual's last taxable year beginning in such calendar year shall be increased by the aggregate amount of such payments.

''(2) RECONCILIATION OF PAYMENTS ADVANCED AND CREDIT ALLOWED.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit (other than the credit allowed by subsection (a)) allowable under part IV of subchapter A of chapter 1.

''(f) SPECIAL RULES.—

''(1) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

''(2) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

''(3) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

''(4) CREDIT TREATED AS REFUNDABLE CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart C of part IV of subchapter A of chapter 1.

''(5) EXPENSES MUST BE SUBSTANTIATED.—A payment for qualified health insurance to which subsection (a) applies may be taken into account under this section only if the taxpayer substantiates such payment in such form as the Secretary may prescribe.

''(6) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section and section 7527.''.

(b) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

**"SEC. 6050T. RETURNS RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

''(a) REQUIREMENT OF REPORTING.—Every person—

''(1) who, in connection with a trade or business conducted by such person, receives payments during any calendar year from any individual for coverage of such individual or any other individual under qualified health insurance (as defined in section 6429(d)), and

''(2) who claims a reimbursement for an advance credit amount,

shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each individual from whom such payments were received or for whom such a reimbursement is claimed.

''(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

''(1) is in such form as the Secretary may prescribe, and

''(2) contains—

''(A) the name, address, and TIN of each individual referred to in subsection (a),

''(B) the aggregate of the advance credit amounts provided to such individual and for which reimbursement is claimed,

''(C) the number of months for which such advance credit amounts are so provided, and

''(D) such other information as the Secretary may prescribe.

''(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

''(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

''(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.

''(d) ADVANCE CREDIT AMOUNT.—For purposes of this section, the term 'advance credit amount' means an amount for which the person can claim a reimbursement pursuant to a program established by the Secretary under section 7527.''.

(2) ASSESSABLE PENALTIES.—

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

''(xi) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit),''.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking ''or'' at the end of subparagraph (Z), by striking the period at the end of subparagraph (AA) and inserting '', or'', and by adding after subparagraph (AA) the following new subparagraph:

''(BB) section 6050T (relating to returns relating to trade adjustment assistance health insurance credit).''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

''Sec. 6050T. Returns relating to trade adjustment assistance health insurance credit.''.

(c) CRIMINAL PENALTY FOR FRAUD.—

(1) IN GENERAL.—Subchapter B of chapter 75 of the Internal Revenue Code of 1986 (relating to other offenses) is amended by adding at the end the following:

**''SEC. 7276. PENALTIES FOR OFFENSES RELATING TO TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

''Any person who knowingly misuses Department of the Treasury names, symbols, titles, or initials to convey the false impression of association with, or approval or endorsement by, the Department of the Treasury of any insurance products or group health coverage in connection with the credit for trade adjustment assistance health insurance under section 6429 shall on conviction thereof be fined not more than $10,000, or imprisoned not more than 1 year, or both.''.

(2) The table of sections for subchapter B of chapter 75 of such Code is amended by adding at the end the following:

''Sec. 7276. Penalties for offenses relating to trade adjustment assistance health insurance credit.''.

(d) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period '', or from section 6429 of such Code''.

(2) The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 6429. Trade adjustment assistance health insurance credit.''.

(e) 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, 2001, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

(2) PENALTIES.—The amendments made by subsection (c) shall take effect on the date of the enactment of this Act.

**SEC. 602. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

**''SEC. 7527. ADVANCE PAYMENT OF TRADE ADJUSTMENT ASSISTANCE HEALTH INSURANCE CREDIT.**

''(a) GENERAL RULE.—The Secretary shall establish a program for making payments on behalf of eligible individuals (as defined in section 6429(c)) to providers of health insurance for such individuals for whom a qualified health insurance credit eligibility certificate is in effect.

''(b) QUALIFIED HEALTH INSURANCE CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, a qualified health insurance credit eligibility certificate is a statement certified by a designated local agency (as defined in section 51(d)(11)) (or by any other entity designated by the Secretary) which—

''(1) certifies that the individual was an eligible individual (as defined in section 6429(c)) as of the first day of any month, and

''(2) provides such other information as the Secretary may require for purposes of this section.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 7527. Advance payment of trade adjustment assistance health insurance credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

**SEC. 603. HEALTH INSURANCE COVERAGE FOR ELIGIBLE INDIVIDUALS.**

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

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

(2) in paragraph (3) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(4) from funds appropriated under section 174(c)—

''(A) to a State to provide the assistance described in subsection (f) to any eligible worker (as defined in subsection (f)(5)(B)); and

''(B) to a State to provide the assistance described in subsection (g) to any eligible worker (as defined in subsection (g)(5)).''.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

''(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(A) of subsection (a) may be used by the State for the following:

''(A) HEALTH INSURANCE COVERAGE.—To assist an eligible worker (as defined in paragraph (5)(B)) in enrolling in health insurance coverage through—

''(i) COBRA continuation coverage;

''(ii) State-based continuation coverage provided by the State under a State law that requires such coverage even though the coverage would not otherwise be required under the provisions of law referred to in paragraph (5)(A);

''(iii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a qualified State high risk pool or other comparable State-based health insurance coverage alternative;

''(iv) the enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees;

''(v) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-based health insurance program that is comparable to the health insurance program offered for State employees;

''(vi) a direct payment arrangement entered into by the State and a group health plan (including a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(37))), an issuer of health insurance coverage, an administrator, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents;

''(vii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in a State-operated, State-funded health plan;

''(viii) the enrollment of the eligible worker and the eligible worker's spouse and dependents in health insurance coverage offered through a State arrangement with a private sector health care coverage purchasing pool; or

''(ix) in the case of an eligible worker who was enrolled in individual health insurance coverage during the 6-month period that ends on the date on which the worker became unemployed, enrollment in such individual health insurance coverage.

''(B) ESTABLISHMENT OF HEALTH INSURANCE COVERAGE MECHANISMS.—To establish or administer—

''(i) a qualified State high risk pool for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents;

''(ii) a State-based program for the purpose of providing health insurance coverage to an eligible worker and the eligible worker's spouse and dependents that is comparable to the State health insurance program for State employees; or

''(iii) a program under which the State enters into arrangements described in subparagraph (A)(vi).

''(C) ADMINISTRATIVE EXPENSES.—Subject to paragraph (3), to pay the administrative expenses related to the enrollment of eligible workers and the eligible workers spouses and dependents in health insurance coverage described in subparagraph (A), including—

''(i) eligibility verification activities;

''(ii) the notification of eligible workers of available health insurance coverage options;

''(iii) processing qualified health insurance credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

''(iv) providing assistance to eligible workers in enrolling in health insurance coverage;

''(v) the development or installation of necessary data management systems; and

''(vi) any other expenses determined appropriate by the Secretary.

''(D) ENROLLMENT LOSSES.—

''(i) IN GENERAL.—Subject to paragraph (3), to reimburse the State or an issuer of health insurance coverage for losses, in connection with the enrollment of high cost eligible workers, that are in excess of 100 percent of the standard loss ratio (as defined in clause (iv)) for the State-based programs described in clauses (iii), (iv), (v), (vi), or (vii) of subparagraph (A) as a result of the enrollment of eligible workers, and the eligible workers spouses and dependents, in such programs.

''(ii) DETERMINATION.—Such losses shall be determined based on the standard loss ratio applicable to the State in the year immediately prior to year in which the enrollment of eligible workers commences.

''(iii) AMOUNT.—

''(I) IN GENERAL.—With respect to a State-based program described in clause (i) that experiences a loss that is in excess of 150 percent of the standard loss ratio, the amount of reimbursement that a State may receive under such clause with respect to a year shall not exceed an amount equal to 90 percent of the amount that is in excess of such standard loss ratio.

''(II) REIMBURSEMENT FOR CERTAIN STATES.—If a State establishes, or provides for the enrollment of eligible workers in health insurance coverage provided through, a State-based program described in clause (i) during the 1-year period that begins on the date of enactment of this subsection, the amount of reimbursement that a State may

receive under such clause with respect to a year shall not exceed the greater of—

''(aa) in the case of a State-based program that experiences a loss that is in excess of 120 percent, but less than 150 percent, of the standard loss ratio, an amount equal to 50 percent of the amount that is in excess of such standard loss ratio; or

''(bb) the amount determined under subclause (I) if applicable.

''(iv) DEFINITION OF STANDARD LOSS RATIO.—In this subsection, the term 'standard loss ratio', with respect to the pool of insured individuals under coverage described in clauses (ii) through (viii) of subparagraph (A) for a year, means—

''(I) the amount of claims incurred by the program; divided by

''(II) the premiums paid for enrollment in health insurance coverage provided under such program.

''(2) REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE.—With respect to health insurance coverage provided to eligible workers under any of clauses (ii) through (viii) of paragraph (1)(A), the State shall ensure that—

''(A) enrollment is guaranteed for workers who provide a qualified health insurance credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and who pay the remainder of the premium for such enrollment;

''(B) no pre-existing condition limitations are imposed with respect to such eligible workers;

''(C) the worker is not required (as a condition of enrollment or continued enrollment under the coverage) to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual who is not an eligible worker;

''(D) benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not eligible workers;

''(E) the standard loss ratio for the coverage is not less than 65 percent;

''(F) in the case of coverage provided under paragraph (1)(A)(v), the premiums and benefits are comparable to the premiums and benefits applicable to State employees; and

''(G) such coverage otherwise meets requirements established by the Secretary.

''(3) LIMITATION.—A State that fails, during the 2-year period beginning on the date of enactment of this subsection, to establish, or provide for the enrollment of eligible workers in health insurance coverage provided through, a State-based program described in any of clauses (iii) through (vii) of paragraph (1)(A), shall not use amounts made available under subsection (a)(4) for expenditures described in subparagraphs (C) and (D) of paragraph (1).

''(4) AVAILABILITY OF FUNDS.—

''(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(i) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(ii) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(iii) develop procedures to expedite the provision of funds to States with approved applications.

''(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—Except as provided for in paragraph (3), the Secretary shall ensure that funds made available under section 174(c)(1) to carry out subsection (a)(4) are available to States throughout the period described in section 174(c)(2).

''(5) DEFINITIONS.—For purposes of this subsection:

''(A) COBRA CONTINUATION COVERAGE.—The term 'COBRA continuation coverage' means coverage under a group health plan provided by an employer pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, part 6 of subtitle B of title I of the Employee Retirement Income Security Act of 1974, or section 8905a of title 5, United States Code.

''(B) ELIGIBLE WORKER.—

''(i) IN GENERAL.—The term 'eligible worker' means an individual who—

''(I) is qualified to receive payment of a trade adjustment allowance under section 235 of the Trade Act of 1974, as amended by section 111 of the Trade Adjustment Assistance Reform Act of 2002;

''(II) does not have other specified coverage; and

''(III) is not imprisoned under Federal, State, or local authority.

''(ii) STEELWORKER RETIREES.—Such term includes an individual not described in clause (i) who would have been eligible to be certified as an eligible retiree or eligible beneficiary for purposes of participating in the Steel Industry Retiree Benefits Protection program under the Trade Act of 1974, as amended by S.2189, as introduced on April 17, 2002.

''(C) OTHER SPECIFIED COVERAGE.—With respect to an eligible worker described in subparagraph (B)(i), the term 'other specified coverage' means—

''(i) SUBSIDIZED COVERAGE.—

''(I) IN GENERAL.—Such individual is covered under any health insurance coverage under which at least 50 percent of the cost of coverage (determined under section 4980B of the Internal Revenue Code of 1986) is paid or incurred by an employer (or former employer) of the individual or the individual's spouse.

''(II) TREATMENT OF CAFETERIA PLANS AND FLEXIBLE SPENDING ACCOUNTS.—For purposes of subclause (I), the cost of benefits which are chosen under a cafeteria plan (as defined in section 125(d) of such Code), or provided under a flexible spending or similar arrangement, of such an employer, and which are not includible in gross income under section 106 of such Code, shall be treated as borne by such employer.

''(ii) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

''(I) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

''(II) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928).

''(iii) CERTAIN OTHER COVERAGE.—Such individual—

''(I) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code;

''(II) is entitled to receive benefits under chapter 55 of title 10, United States Code;

''(III) is entitled to receive benefits under chapter 17 of title 38, United States Code; or

''(IV) is eligible for benefits under the Indian Health Care Improvement Act.

Such term does not include coverage under a qualified long-term care insurance contract (as defined in section 7702B(b)(1) of the Internal Revenue Code of 1986).

''(D) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given that term in section 2791(a) of the Public Health Service Act (42 U.S.C. 300gg–91(a)), section 607(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1167(1)), and section 4980B(g)(2) of the Internal Revenue Code of 1986.

''(E) HEALTH INSURANCE COVERAGE.—The term 'health insurance coverage' has the meaning given that term in section 2791(b)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(1)) (other than insurance if substantially all of its coverage is of excepted benefits described in section 2791(c) of such Act (42 U.S.C. 300gg–91(c)) .

''(F) INDIVIDUAL HEALTH INSURANCE COVERAGE.—The term 'individual health insurance coverage' means health insurance coverage offered to individuals other than in connection with a group health plan. Such term does not include Federal- or State-based health insurance coverage.

''(G) QUALIFIED STATE HIGH RISK POOL.—The term 'qualified State high risk pool' has the meaning given that term in section 2744(c)(2) of the Public Health Service Act.

''(g) INTERIM HEALTH AND OTHER ASSISTANCE.—

''(1) IN GENERAL.—Funds made available to a State under paragraph (4)(B) of subsection (a) may be used by the State to provide assistance and support services to eligible workers, including health care coverage, transportation, child care, dependent care, and income assistance.

''(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible worker with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) or the unemployment compensation laws of the State where the eligible worker resides.

''(3) HEALTH CARE COVERAGE.—With respect to any health care coverage assistance provided to an eligible worker with such funds, the following rules shall apply:

''(A) The State may provide assistance in obtaining health care coverage to the eligible worker and to the eligible worker's spouse and dependents.

''(B) Such assistance may include any or a combination of the following:

''(i) Direct payment arrangements with a group health plan (including a multiemployer plan), an issuer of health insurance coverage, an administrator, or an employer, as appropriate, on behalf of the eligible worker and the eligible worker's spouse and dependents.

''(ii) The enrollment of the eligible worker and the eligible worker's spouse and dependents in the health insurance program offered for State employees.

''(iii) Subject to section 603(e) of the Trade Adjustment Assistance Reform Act of 2002, the enrollment of the eligible worker and the eligible worker's spouse and dependents under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the State children's health insurance program under title XXI of that Act (42 U.S.C. 1397aa et seq.).

''(C) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

''(4) EXPEDITED PROCEDURES.—With respect to applications submitted by States for grants under this subsection, the Secretary shall—

''(A) not later than 15 days after the date on which the Secretary receives a completed application from a State, notify the State of the determination of the Secretary with respect to the approval or disapproval of such application;

''(B) in the case of a State application that is disapproved by the Secretary, provide technical assistance, at the request of the State, in a timely manner to enable the State to submit an approved application; and

''(C) develop procedures to expedite the provision of funds to States with approved applications.

''(5) DEFINITIONS.—In this subsection:

''(A) ELIGIBLE WORKER.—

''(i) IN GENERAL.—The term 'eligible worker' means an individual who is a member of a group of workers certified after April 1, 2002 under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Adjustment Assistance Reform Act of 2002) and who is determined to be qualified to receive payment of a trade adjustment allowance under such chapter (as so in effect).

''(ii) STEELWORKER RETIREES.—Such term includes an individual not described in clause (i) who would have been eligible to be certified as an eligible retiree or eligible beneficiary for purposes of participating in the Steel Industry Retiree Benefits Protection program under the Trade Act of 1974, as amended by S.2189, as introduced on April 17, 2002.

''(B) OTHER TERMS.—The terms 'administrator', 'group health plan', 'health insurance coverage', and 'multiemployer plan' have the meanings given those terms in subsection (f)(5).''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

''(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

''(1) IN GENERAL.—There are authorized to be appropriated—

''(A) to carry out subsection (a)(4)(A) of section 173—

''(i) $10,000,000 for fiscal year 2002; and

''(ii) $60,000,000 for each of fiscal years 2003 through 2007; and

''(B) to carry out subsection (a)(4)(B) of section 173—

''(i) $50,000,000 for fiscal year 2002;

''(ii) $100,000,000 for fiscal year 2003; and

''(iii) $50,000,000 for fiscal year 2004.

''(2) AVAILABILITY OF FUNDS.—Funds appropriated under—

''(A) paragraph (1)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Adjustment Assistance Reform Act of 2002; and

''(B) paragraph (1)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Adjustment Assistance Reform Act of 2002 and ends on September 30, 2004.''.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting '', other than under subsection (a)(4), (f), and (g)'' after ''grants''.

(e) AUTHORITY AND SPECIAL RULES FOR HEALTH CARE COVERAGE ASSISTANCE PROVIDED TO ELIGIBLE WORKERS UNDER MEDICAID OR SCHIP.—

(1) IN GENERAL.—Notwithstanding any other provision of law, in the case of an eligible worker described in section 173(g)(5)(A) of the Workforce Investment Act of 1998 (as added by subsection (b)) a State may elect, subject to paragraph (2), to provide such worker and the worker's spouse and dependents assistance with health care coverage under the State medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) or under the State children's health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.) (whether such program is implemented under that title or title XIX of such Act).

(2) SPECIAL RULES.—In the case of assistance provided under an election made under this subsection—

(A) such assistance shall be provided with funds made available to the State under section 173(a)(4)(B) of the Workforce Investment Act of 1998 (as added by subsection (a)) and without regard to any State share requirement that would otherwise apply;

(B) at a minimum, such assistance shall meet the requirements of section 2103 of the Social Security Act (42 U.S.C. 1397cc); and

(C) with respect to such assistance provided under the State medicaid program, shall be provided without regard to requirements relating to statewideness of coverage, or income, assets, or resources eligibility limitations that would otherwise apply under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(f) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the election period for COBRA continuation coverage (as defined in section 6429(d)(2) of the Internal Revenue Code of 1986) with respect to any eligible individual (as defined in section 6429(c) of such Code) for whom such period has expired as of the date of the enactment of this Act, shall not end before the date that is 60 days after the date the individual becomes such an eligible individual.

(2) PREEXISTING CONDITIONS.—If an individual becomes such an eligible individual, any period before the date of such eligibility shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1181(c)(2)), section 2701(c)(2) of the Public Health Service Act (42 U.S.C. 300gg(c)(2)), and section 9801(c)(2) of the Internal Revenue Code of 1986.

## TITLE VII—CONFORMING AMENDMENTS AND EFFECTIVE DATE

### SEC. 701. CONFORMING AMENDMENTS.

(a) AMENDMENTS TO THE TRADE ACT OF 1974.—

(1) ASSISTANCE TO INDUSTRIES.—Section 265 of the Trade Act of 1974 (19 U.S.C. 2355) is amended by striking ''certified as eligible to apply for adjustment assistance under sections 231 or 251'', and inserting ''certified as eligible for trade adjustment assistance benefits under section 231, or as eligible to apply for adjustment assistance under section 251''.

(2) GENERAL ACCOUNTING OFFICE REPORT.—Section 280 of the Trade Act of 1974 (19 U.S.C. 2391) is amended to read as follows:

### ''SEC. 280. GENERAL ACCOUNTING OFFICE REPORT.

''(a) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study of the adjustment assistance programs established under chapters 2, 3, 4, 6, and 7 of this title and shall report the results of such study to the Congress no later than January 31, 2005. Such report shall include an evaluation of—

''(1) the effectiveness of such programs in aiding workers, farmers, fishermen, firms, and communities to adjust to changed economic conditions resulting from changes in the patterns of international trade; and

''(2) the coordination of the administration of such programs and other Government programs which provide unemployment compensation and relief to depressed areas.

''(b) ASSISTANCE OF OTHER DEPARTMENTS AND AGENCIES.—In carrying out his responsibilities under this section, the Comptroller General shall, to the extent practical, avail himself of the assistance of the Departments of Labor, Commerce, and Agriculture and the Small Business Administration. The Secretaries of Labor, Commerce, and Agriculture and the Administrator of the Small Business Administration shall make available to the Comptroller General any assistance necessary for an effective evaluation of the adjustment assistance programs established under this title.''.

(3) COORDINATION.—Section 281 of the Trade Act of 1974 (19 U.S.C. 2392) is amended by striking ''Departments of Labor and Commerce'' and inserting ''Departments of Labor, Commerce, and Agriculture''.

(4) TRADE MONITORING SYSTEM.—Section 282 of the Trade Act of 1974 (19 U.S.C. 2393) is amended by striking ''The Secretary of Commerce and the Secretary of Labor'' and inserting ''The Secretaries of Commerce, Labor, and Agriculture''.

(5) JUDICIAL REVIEW.—

(A) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended by striking ''under section 223 or section 250(c)'' and all that follows through ''the Secretary of Commerce under section 271'' and inserting ''under section 231, a firm or its representative, or any other interested domestic party aggrieved by a final determination of the Secretary of Commerce under section 251, an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 293, or a producer (as defined in section 299(2)) aggrieved by a determination of the Secretary of Commerce under section 299B''.

(B) Section 284 of such Trade Act of 1974 is amended in the second sentence of subsection (a) and in subsections (b) and (c), by inserting ''or the Secretary of Agriculture'' after ''Secretary of Commerce'' each place it appears.

(6) TERMINATION.—Section 285 of the Trade Act of 1974 is amended to read as follows:

### ''SEC. 285. TERMINATION.

''(a) ASSISTANCE FOR WORKERS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.

''(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—

''(A) certified as eligible for trade adjustment assistance benefits under section 231; and

''(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

''(b) OTHER ASSISTANCE.—

''(1) ASSISTANCE FOR FIRMS.—Technical assistance may not be provided under chapter 3 after September 30, 2007.

''(2) ASSISTANCE FOR COMMUNITIES.—Technical assistance and other payments may not be provided under chapter 4 after September 30, 2007.

''(3) ASSISTANCE FOR FARMERS AND FISHERMEN.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 or 7 after September 30, 2007.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2)) or producer (as defined in section 299(2)), shall continue to receive adjustment assistance benefits and other benefits under chapter 6 or 7, whichever applies, for any week for which the agricultural commodity producer or producer meets the eligibility requirements of

chapter 6 or 7, whichever applies, if on or before September 30, 2007, the agricultural commodity producer or producer is—

''(i) certified as eligible for adjustment assistance benefits under chapter 6 or 7, whichever applies; and

''(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6 or 7.''.

(6) TABLE OF CONTENTS.—

(A) IN GENERAL.—The table of contents for chapters 2, 3, and 4 of title II of the Trade Act of 1974 is amended to read as follows:

''CHAPTER 2—ADJUSTMENT ASSISTANCE FOR WORKERS

''SUBCHAPTER A—GENERAL PROVISIONS

''Sec. 221. Definitions.
''Sec. 222. Agreements with States.
''Sec. 223. Administration absent State agreement.
''Sec. 224. Data collection; evaluations; reports.
''Sec. 225. Study by Secretary of Labor when International Trade Commission begins investigation.
''Sec. 226. Report by Secretary of Labor on likely impact of trade agreements.

''SUBCHAPTER B—CERTIFICATIONS

''Sec. 231. Certification as adversely affected workers.
''Sec. 232. Benefit information to workers.

''SUBCHAPTER C—PROGRAM BENEFITS

''PART I—GENERAL PROVISIONS

''Sec. 234. Comprehensive assistance.

''PART II—TRADE ADJUSTMENT ALLOWANCES

''Sec. 235. Qualifying requirements for workers.
''Sec. 236. Weekly amounts.
''Sec. 237. Limitations on trade adjustment allowances.
''Sec. 238. Application of State laws.

''PART III—EMPLOYMENT SERVICES, TRAINING, AND OTHER ALLOWANCES

''Sec. 239. Employment services.
''Sec. 240. Training.
''Sec. 241. Job search allowances.
''Sec. 242. Relocation allowances.
''Sec. 243. Supportive services; wage insurance.

''SUBCHAPTER D—PAYMENT AND ENFORCEMENT PROVISIONS

''Sec. 244. Payments to States.
''Sec. 245. Liabilities of certifying and disbursing officers.
''Sec. 246. Fraud and recovery of overpayments.
''Sec. 247. Criminal penalties.
''Sec. 248. Authorization of appropriations.
''Sec. 249. Regulations.
''Sec. 250. Subpoena power.

''CHAPTER 3—TRADE ADJUSTMENT ASSISTANCE FOR FIRMS

''Sec. 251. Petitions and determinations.
''Sec. 252. Approval of adjustment proposals.
''Sec. 253. Technical assistance.
''Sec. 254. Financial assistance.
''Sec. 255. Conditions for financial assistance.
''Sec. 256. Delegation of functions to Small Business Administration; authorization of appropriations.
''Sec. 257. Administration of financial assistance.
''Sec. 258. Protective provisions.
''Sec. 259. Penalties.
''Sec. 260. Suits.
''Sec. 261. Definition of firm.
''Sec. 262. Regulations.
''Sec. 264. Study by Secretary of Commerce when International Trade Commission begins investigation; action where there is affirmative finding.
''Sec. 265. Assistance to industries.

''CHAPTER 4—COMMUNITY ECONOMIC ADJUSTMENT

''Sec. 271. Definitions.
''Sec. 272. Office of Community Trade Adjustment.
''Sec. 273. Notification and certification as an eligible community.
''Sec. 274. Community Economic Development Coordinating Committee.
''Sec. 275. Community economic adjustment advisors.
''Sec. 276. Strategic plans.
''Sec. 277. Grants for economic development.
''Sec. 278. Authorization of appropriations.
''Sec. 279. General provisions.''.

(B) CHAPTERS 6 AND 7.—The table of contents for title II of the Trade Act of 1974, as amended by subparagraph (A), is amended by inserting after the items relating to chapter 5 the following:

''CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

''Sec. 291. Definitions.
''Sec. 292. Petitions; group eligibility.
''Sec. 293. Determinations by Secretary of Agriculture.
''Sec. 294. Study by Secretary of Agriculture when International Trade Commission begins investigation.
''Sec. 295. Benefit information to agricultural commodity producers.
''Sec. 296. Qualifying requirements for agricultural commodity producers.
''Sec. 297. Fraud and recovery of overpayments.
''Sec. 298. Authorization of appropriations.

''CHAPTER 7—ADJUSTMENT ASSISTANCE FOR FISHERMEN

''Sec. 299. Definitions.
''Sec. 299A. Petitions; group eligibility.
''Sec. 299B. Determinations by Secretary.
''Sec. 299C. Study by Secretary when International Trade Commission begins investigation.
''Sec. 299D. Benefit information to producers.
''Sec. 299E. Qualifying requirements for producers.
''Sec. 299F. Fraud and recovery of overpayments.
''Sec. 299G. Authorization of appropriations.''.

(b) INTERNAL REVENUE CODE.—

(1) ADJUSTED GROSS INCOME.—Section 62(a)(12) of the Internal Revenue Code of 1986 (relating to the definition of adjusted gross income) is amended by striking ''trade readjustment allowances under section 231 or 232'' and inserting ''trade adjustment allowances under section 235 or 236''.

(2) FEDERAL UNEMPLOYMENT.—

(A) IN GENERAL.—Section 3304(a)(8) of the Internal Revenue Code of 1986 (relating to the approval of State unemployment insurance laws) is amended to read as follows:

''(8) compensation shall not be denied to an individual for any week because the individual is in training with the approval of the State agency, or in training approved by the Secretary of Labor pursuant to chapter 2 of title II of the Trade Act of 1974 (or because of the application, to any such week in training, of State law provisions relating to availability for work, active search for work, or refusal to accept work);''.

(B) EFFECTIVE DATE.—

(i) IN GENERAL.—Except as provided in clause (ii), the amendments made by this paragraph shall apply in the case of compensation paid for weeks beginning on or after the date that is 90 days after the date of enactment of this Act.

(ii) MEETING OF STATE LEGISLATURE.—

(I) IN GENERAL.—If the Secretary of Labor identifies a State as requiring a change to its statutes or regulations in order to comply with the amendments made by subparagraph (A), the amendments made by subparagraph (A) shall apply in the case of compensation paid for weeks beginning after the earlier of—

(aa) the date the State changes its statutes or regulations in order to comply with the amendments made by this section; or

(bb) the end of the first session of the State legislature which begins after the date of enactment of this Act or which began prior to such date and remained in session for at least 25 calendar days after such date;

except that in no case shall the amendments made by this Act apply before the date described in clause (i).

(II) SESSION DEFINED.—In this clause, the term ''session'' means a regular, special, budget, or other session of a State legislature.

(c) AMENDMENTS TO TITLE 28.—

(1) CIVIL ACTIONS AGAINST THE UNITED STATES.—Section 1581(d) of title 28, United States Code, is amended—

(A) in paragraph (1), by striking ''section 223'' and inserting ''section 231'';

(B) in paragraph (2), by striking ''and''; and

(C) by striking paragraph (3), and inserting the following:

''(3) any final determination of the Secretary of Agriculture under section 293 of the Trade Act of 1974 with respect to the eligibility of an agricultural commodity producer (as defined in section 291(2)) for adjustment assistance under such Act; and

''(4) any final determination of the Secretary of Commerce under section 299B of the Trade Act of 1974 with respect to the eligibility of a producer (as defined in section 299(2)) for adjustment assistance under such Act.''.

(2) PERSONS ENTITLED TO COMMENCE A CIVIL ACTION.—Section 2631 of title 28, United States Code, is amended—

(A) by amending subsection (d)(1) to read as follows:

''(d)(1) A civil action to review any final determination of the Secretary of Labor under section 231 of the Trade Act of 1974 with respect to the certification of workers as adversely affected and eligible for trade adjustment assistance under that Act may be commenced by a worker, a group of workers, a certified or recognized union, or an authorized representative of such worker or group, that petitions for certification under that Act or is aggrieved by the final determination.'';

(B) by striking paragraph (3), and inserting the following:

''(3) A civil action to review any final determination of the Secretary of Agriculture under section 293 of the Trade Act of 1974 with respect to the eligibility of an agricultural commodity producer for adjustment assistance may be commenced in the Court of International Trade by an agricultural commodity producer that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested party that is aggrieved by such final determination.''; and

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

''(4) A civil action to review any final determination of the Secretary of Commerce under section 299B of the Trade Act of 1974 with respect to the eligibility of an producer (as defined in section 299(2)) for adjustment assistance may be commenced in the Court of International Trade by a producer that applies for assistance under such Act and is aggrieved by such final determination, or by any other interested party that is aggrieved by such final determination.''.

(3) TIME FOR COMMENCEMENT OF ACTION.—Section 2636(d) of title 28, United States Code, is amended by striking ''under section 223 of the Trade Act of 1974 or a final determination of the Secretary of Commerce under section 251 or section 271 of such Act'' and inserting ''under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, a final determination of the Secretary of Agriculture under section 293 of that Act, or a final determination of the Secretary of Commerce under section 299B of that Act''.

(4) SCOPE AND STANDARD OF REVIEW.—Section 2640(c) of title 28, United States Code, is amended by striking ''under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act'' and inserting ''under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, a final determination of the Secretary of Agriculture under section 293 of that Act, or a final determination of the Secretary of Commerce under section 299B of that Act''.

(5) RELIEF.—Section 2643(c)(2) of title 28, United States Code, is amended by striking ''under section 223 of the Trade Act of 1974 or any final determination of the Secretary of Commerce under section 251 or section 271 of such Act'' and inserting ''under section 231 of the Trade Act of 1974, a final determination of the Secretary of Commerce under section 251 of that Act, a final determination of the Secretary of Agriculture under section 293 of that Act, or a final determination of the Secretary of Commerce under section 299B of that Act''.

(d) AMENDMENT TO THE FOOD STAMP ACT OF 1977.—Section 6(o)(1)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2015(o)(1)(B)) is amended by striking ''section 236'' and inserting ''section 240''.

## TITLE VIII—SAVINGS PROVISIONS AND EFFECTIVE DATE

### SEC. 801. SAVINGS PROVISIONS.

(a) PROCEEDINGS NOT AFFECTED.—

(1) IN GENERAL.—The provisions of this division shall not affect any petition for certification for benefits under chapter 2 of title II of the Trade Act of 1974 that was in effect on September 30, 2001. Determinations shall be issued, appeals shall be taken therefrom, and payments shall be made under those determinations, as if this division had not been enacted, and orders issued in any proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(2) MODIFICATION OR DISCONTINUANCE.—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding under the same terms and conditions and to the same extent that the proceeding could have been discontinued or modified if this division had not been enacted.

(b) SUITS NOT AFFECTED.—The provisions of this division shall not affect any suit commenced before October 1, 2001, and in all those suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this division had not been enacted.

(c) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Federal Government, or by or against any individual in the official capacity of that individual as an officer of the Federal Government, shall abate by reason of enactment of this Act.

### SEC. 802. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in sections 401(b), 501(b), and 701(b)(2)(B), titles IX, X, and XI, and subsections (b), (c), and (d) of this section, the amendments made by this division shall apply to—

(1) petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this Act; and

(2) certifications for assistance under chapter 4 of title II of the Trade Act of 1974 issued on or after the date that is 90 days after the date of enactment of this Act.

(b) WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date, if on or before such date, the worker—

(1) was certified as eligible for trade adjustment assistance benefits under such chapter as in effect on such date; and

(2) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on such date.

(c) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, any worker who would have been eligible to receive trade adjustment assistance or other benefits under chapter 2 of title II of the Trade Act if 1974 during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ''qualified period'' means the period beginning on January 11, 2002 and ending on the date that is 90 days after the date of enactment of this Act.

(d) ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, and except as provided in paragraph (2) any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act if 1974 during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term ''qualified period'' means the period beginning on October 1, 2001 and ending on the date that is 90 days after the date of enactment of this Act.

## TITLE IX—REVENUE PROVISIONS

### SEC. 901. CUSTOM USER FEES.

Section 13031(j)(3) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)) is amended by striking ''2003'' and inserting ''2009''.

## TITLE X—MISCELLANEOUS PROVISIONS

### SEC. 1001. COUNTRY OF ORIGIN LABELING OF FISH AND SHELLFISH PRODUCTS.

(a) DEFINITIONS.—In this section:

(1) COVERED COMMODITY.—The term ''covered commodity'' means—

(A) a perishable agricultural commodity; and

(B) any fish or shellfish, and any fillet, steak, nugget, or any other flesh from fish or shellfish, whether fresh, chilled, frozen, canned, smoked, or otherwise preserved.

(2) FOOD SERVICE ESTABLISHMENT.—The term ''food service establishment'' means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

(3) PERISHABLE AGRICULTURAL COMMODITY; RETAILER.—The terms ''perishable agricultural commodity'' and ''retailer'' have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499a(b)).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

(b) NOTICE OF COUNTRY OF ORIGIN.—

(1) REQUIREMENT.—Except as provided in paragraph (3), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

(2) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity is exclusively harvested and processed in the United States, or in the case of farm-raised fish and shellfish, is hatched, raised, harvested, and processed in the United States.

(3) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Paragraph (1) shall not apply to a covered commodity if the covered commodity is prepared or served in a food service establishment, and—

(A) offered for sale or sold at the food service establishment in normal retail quantities; or

(B) served to consumers at the food service establishment.

(c) METHOD OF NOTIFICATION.—

(1) IN GENERAL.—The information required by subsection (b) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the covered commodity at the final point of sale to consumers.

(2) LABELED COMMODITIES.—If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

(d) AUDIT VERIFICATION SYSTEM.—The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable recordkeeping audit trail that will permit the Secretary to ensure compliance with the regulations promulgated under subsection (g).

(e) INFORMATION.—Any person engaged in the business of supplying a covered commodity to a retailer shall provide information to the retailer indicating the country of origin of the covered commodity.

(f) ENFORCEMENT.—

(1) IN GENERAL.—Each Federal agency having jurisdiction over retailers of covered commodities shall, at such time as the necessary regulations are adopted under subsection (g), adopt measures intended to ensure that the requirements of this section are followed by affected retailers.

(2) VIOLATION.—A violation of subsection (b) shall be treated as a violation under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(g) REGULATIONS.—

(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to carry out this section within 1 year after the date of enactment of this Act.

(2) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States that have the enforcement infrastructure necessary to carry out this section.

(h) APPLICATION.—This section shall apply to the retail sale of a covered commodity beginning on the date that is 180 days after the date of enactment of this Act.

**SEC. 1002. SUGAR POLICY.**

(a) FINDINGS.—Congress finds that—

(1) the tariff-rate quotas imposed on imports of sugar, syrups and sugar-containing products under chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule of the United States are an essential element of United States sugar policy;

(2) circumvention of the tariff-rate quotas will, if unchecked, make it impossible to achieve the objectives of United States sugar policy;

(3) the tariff-rate quotas have been circumvented frequently, defeating the purposes of United States sugar policy and causing disruption to the United States market for sweeteners, injury to domestic growers, refiners, and processors of sugar, and adversely affecting legitimate exporters of sugar to the United States;

(4) it is essential to United States sugar policy that the tariff-rate quotas be enforced and that deceptive practices be prevented, including the importation of products with no commercial use and failure to disclose all relevant information to the United States Customs Service; and

(5) unless action is taken to prevent circumvention, circumvention of the tariff-rate quotas will continue and will ultimately destroy United States sugar policy.

(b) POLICY.—It is the policy of the United States to maintain the integrity of the tariff-rate quotas on sugars, syrups, and sugar-containing products by stopping circumvention as soon as it becomes apparent. It is also the policy of the United States that products not used to circumvent the tariff-rate quotas, such as molasses used for animal feed or for rum, not be affected by any action taken pursuant to this Act.

(c) IDENTIFICATION OF IMPORTS.—

(1) IDENTIFICATION.—Not later than 30 days after the date of enactment of this Act, and on a regular basis thereafter, the Secretary of Agriculture shall—

(A) identify imports of articles that are circumventing tariff-rate quotas on sugars, syrups, or sugar-containing products imposed under chapter 17, 18, 19, or 21 of the Harmonized Tariff Schedule of the United States; and

(B) report to the President the articles found to be circumventing the tariff-rate quotas.

(2) ACTION BY PRESIDENT.—Upon receiving the report from the Secretary of Agriculture, the President shall, by proclamation, include any article identified by the Secretary in the appropriate tariff-rate quota provision of the Harmonized Tariff Schedule.

## TITLE XI—CUSTOMS REAUTHORIZATION

**SEC. 1101. SHORT TITLE.**

This title may be cited as the ''Customs Border Security Act of 2002''.

### Subtitle A—United States Customs Service

### CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

**SEC. 1111. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.**

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) in subparagraph (A) to read as follows:

''(A) $886,513,000 for fiscal year 2003.''; and

(2) in subparagraph (B) to read as follows:

''(B) $909,471,000 for fiscal year 2004.''.

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) in clause (i) to read as follows:

''(i) $1,603,482,000 for fiscal year 2003.''; and

(B) in clause (ii) to read as follows:

''(ii) $1,645,009,000 for fiscal year 2004.''.

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2003 and 2004 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), $308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

(3) REPORTS.—Not later than 90 days after the date of enactment of this Act, and not later than each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreements Implementation Act.

(c) AIR AND MARINE INTERDICTION.—Section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) is amended—

(1) in subparagraph (A) to read as follows:

''(A) $181,860,000 for fiscal year 2003.''; and

(2) in subparagraph (B) to read as follows:

''(B) $186,570,000 for fiscal year 2004.''.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(a)) is amended by adding at the end the following:

''(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).''.

**SEC. 1112. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.**

(a) FISCAL YEAR 2003.—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 1111(a) of this title, $90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) UNITED STATES-MEXICO BORDER.—For the United States-Mexico border, the following:

(A) $6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) $11,200,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $13,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1–MeV).

(D) $7,200,000 for 8 1–MeV pallet x-rays.

(E) $1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) $600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) $500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) $2,450,000 for 7 automated targeting systems.

(I) $360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) $480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) $1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) $1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) $180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) $1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) $950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) $390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) $1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) $400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) $3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) $8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) $3,600,000 for 4 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) $240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) $400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) $4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) $11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) $7,200,000 for 8 1–MeV pallet x-rays.

(D) $250,000 for 50 portable contraband detectors (busters) to be distributed among

ports where the current allocations are inadequate.

(E) $300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2004.—Of the amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 1111(a) of this title, $9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 1111(a) of this title, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

**SEC. 1113. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.**

As part of the annual performance plan for each of the fiscal years 2003 and 2004 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals, performance indicators, and comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to sections 1121 of this title.

## CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

**SEC. 1121. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.**

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service $10,000,000 for fiscal year 2003 to carry out the program to prevent child pornography/child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service.

(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.

## CHAPTER 3—MISCELLANEOUS PROVISIONS

**SEC. 1131. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.**

Of the amount made available for fiscal year 2003 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)), as amended by section 1111 of this title, $25,000,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

**SEC. 1132. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.**

(a) STUDY.—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the effect and impact of the collective bargaining process on drug interdiction efforts of the Customs Service and a comparison of duty rotation policies of the Customs Service and other Federal agencies that employ similarly-situated personnel.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

**SEC. 1133. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.**

(a) STUDY.—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken to comply with provisions of law that protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code; and

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A).

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

**SEC. 1134. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.**

(a) ESTABLISHMENT AND IMPLEMENTATION.—

(1) IN GENERAL.—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

(2) ADDITIONAL REQUIREMENT.—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) REPORTS.—Beginning on the date of enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

**SEC. 1135. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.**

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

(c) DEFINITION.—In this section, the term ''prospective ruling'' means a ruling that is requested by an importer on goods that are proposed to be imported into the United States and that relates to the proper classification, valuation, or marking of such goods.

**SEC. 1136. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.**

(a) STUDY.—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

(b) REPORT.—Not later than 120 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

## CHAPTER 4—ANTITERRORISM PROVISIONS

**SEC. 1141. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.**

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking ''Whenever the President'' and inserting ''(a) Whenever the President''; and

(2) by adding at the end the following:

''(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

''(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

''(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

''(C) Take any other action that may be necessary to directly respond to the national emergency or specific threat.

''(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

''(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).''.

**SEC. 1142. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND PASSENGERS.**

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Section 431(b) of the Tariff Act of 1930 (19 U.S.C. 1431(b)) is amended—

(A) in the first sentence, by striking ''Any manifest'' and inserting ''(1) Any manifest''; and

(B) by adding at the end the following:

''(2) In addition to any other requirement under this section, for each land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission cargo manifest information in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary. The Secretary may exclude any class of land, air, or vessel carrier for which the Secretary concludes the requirements of this subparagraph are not necessary.''.

(2) CONFORMING AMENDMENTS.—Subparagraphs (A) and (C) of section 431(d)(1) of such Act are each amended by inserting before the semicolon ''or subsection (b)(2)''.

(b) PASSENGER INFORMATION.—Part II of title IV of the Tariff Act of 1930 (19 U.S.C. 1431 et seq.) is amended by inserting after section 431 the following:

**''SEC. 432. PASSENGER AND CREW MANIFEST INFORMATION REQUIRED FOR LAND, AIR, OR VESSEL CARRIERS.**

''(a) IN GENERAL.—For every person arriving or departing on a land, air, or vessel carrier required to make entry or obtain clearance under the customs laws of the United States, the pilot, the master, operator, or owner of such carrier (or the authorized agent of such operator or owner) shall provide by electronic transmission manifest information described in subsection (b) in advance of such entry or clearance in such manner, time, and form as prescribed under regulations by the Secretary.

''(b) INFORMATION DESCRIBED.—The information described in this subsection shall include for each person described in subsection (a), the person's—

''(1) full name;

''(2) date of birth and citizenship;

''(3) gender;

''(4) passport number and country of issuance;

''(5) United States visa number or resident alien card number, as applicable;

''(6) passenger name record; and

''(7) such additional information that the Secretary, by regulation, determines is reasonably necessary to ensure aviation and maritime safety pursuant to the laws enforced or administered by the Customs Service.''.

(c) DEFINITION.—Section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) is amended by adding at the end the following:

''(t) The term 'land, air, or vessel carrier' means a land, air, or vessel carrier, as the case may be, that transports goods or passengers for payment or other consideration, including money or services rendered.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect beginning 45 days after the date of enactment of this Act.

**SEC. 1143. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.**

The Tariff Act of 1930 is amended by inserting after section 582 the following:

**''SEC. 583. EXAMINATION OF OUTBOUND MAIL.**

''(a) EXAMINATION.—

''(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

''(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

''(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

''(B) Sections 1461, 1463, 1465, and 1466 and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

''(C) Section 1003 of the Controlled Substances Import and Export Act (21 U.S.C. 953; relating to exportation of controlled substances).

''(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

''(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

''(c) SEARCH OF MAIL SEALED AGAINST INSPECTION.—(1) Mail sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), upon reasonable cause to suspect that such mail contains one or more of the following:

''(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

''(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

''(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

''(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

''(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

''(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

''(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

''(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

''(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

''(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

''(K) Merchandise subject to any other law enforced by the Customs Service.

''(2) No person acting under authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

''(A) a search warrant has been issued pursuant to Rule 41, Federal Rules of Criminal Procedure; or

''(B) the sender or addressee has given written authorization for such reading.''.

**SEC. 1144. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for the reestablishment of operations of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2003.

(2) OPERATIONS DESCRIBED.—The operations referred to in paragraph (1) include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who monitor the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

## CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

**SEC. 1151. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.**

(a) GAO AUDIT.—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor textile transshipment.

(b) REPORT.—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

(c) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question.

**SEC. 1152. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated for textile transshipment enforcement operations of the Customs Service $9,500,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(b) USE OF FUNDS.—Of the amount appropriated pursuant to the authorization of appropriations under subsection (a), the following amounts are authorized to be made available for the following purposes:

(1) IMPORT SPECIALISTS.—$1,463,000 for 21 Customs import specialists to be assigned to selected ports for documentation review to support detentions and exclusions and 1 additional Customs import specialist assigned to the Customs headquarters textile program to administer the program and provide oversight.

(2) INSPECTORS.—$652,080 for 10 Customs inspectors to be assigned to selected ports to examine targeted high-risk shipments.

(3) INVESTIGATORS.—(A) $1,165,380 for 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods.

(B) $149,603 for 1 investigator to be assigned to Customs headquarters textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective.

(4) INTERNATIONAL TRADE SPECIALISTS.—$226,500 for 3 international trade specialists to be assigned to Customs headquarters to be dedicated to illegal textile transshipment policy issues and other free trade agreement enforcement issues.

(5) PERMANENT IMPORT SPECIALISTS FOR HONG KONG.—$500,000 for 2 permanent import specialist positions and $500,000 for 2 investigators to be assigned to Hong Kong to work with Hong Kong and other government authorities in Southeast Asia to assist such authorities pursue proactive enforcement of bilateral trade agreements.

(6) VARIOUS PERMANENT TRADE POSITIONS.—$3,500,000 for the following:

(A) 2 permanent positions to be assigned to the Customs attaché office in Central America to address trade enforcement issues for that region.

(B) 2 permanent positions to be assigned to the Customs attaché office in South Africa to address trade enforcement issues pursuant to the African Growth and Opportunity Act (title I of Public Law 106–200).

(C) 4 permanent positions to be assigned to the Customs attaché office in Mexico to address the threat of illegal textile transshipment through Mexico and other related issues under the North American Free Trade Agreement Act.

(D) 2 permanent positions to be assigned to the Customs attaché office in Seoul, South Korea, to address the trade issues in the geographic region.

(E) 2 permanent positions to be assigned to the proposed Customs attaché office in New Delhi, India, to address the threat of illegal textile transshipment and other trade enforcement issues.

(F) 2 permanent positions to be assigned to the Customs attaché office in Rome, Italy, to address trade enforcement issues in the geographic region, including issues under free trade agreements with Jordan and Israel.

(7) ATTORNEYS.—$179,886 for 2 attorneys for the Office of the Chief Counsel of the Customs Service to pursue cases regarding illegal textile transshipment.

(8) AUDITORS.—$510,000 for 6 Customs auditors to perform internal control reviews and document and record reviews of suspect importers.

(9) ADDITIONAL TRAVEL FUNDS.—$250,000 for deployment of additional textile production verification teams to sub-Saharan Africa.

(10) TRAINING.—(A) $75,000 for training of Customs personnel.

(B) $200,000 for training for foreign counterparts in risk management analytical techniques and for teaching factory inspection techniques, model law Development, and enforcement techniques.

(11) OUTREACH.—$60,000 for outreach efforts to United States importers.

**SEC. 1153. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.**

Of the amount made available for fiscal year 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 1111(b)(1) of this title, $1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan Africa countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106–200), as follows:

(1) TRAVEL FUNDS.—$600,000 for import specialists, special agents, and other qualified Customs personnel to travel to sub-Saharan Africa countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—$266,000 for 4 import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) DATA RECONCILIATION ANALYSTS.—$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of investigations and other enforcement initiatives.

## Subtitle B—Office of the United States Trade Representative

**SEC. 1161. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking ''not to exceed'';

(B) in clause (i) to read as follows:

''(i) $30,000,000 for fiscal year 2003.''; and

(C) in clause (ii) to read as follows:

''(ii) $31,000,000 for fiscal year 2004.''; and

(2) in subparagraph (B)—

(A) in clause (i), by adding ''and'' at the end;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)) is amended by adding at the end the following:

''(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.''.

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2003 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

## Subtitle C—United States International Trade Commission

**SEC. 1171. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended—

(1) in clause (i) to read as follows:

''(i) $51,400,000 for fiscal year 2003.''; and

(2) in clause (ii) to read as follows:

''(ii) $53,400,000 for fiscal year 2004.''.

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended by adding at the end the following:

''(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.''.

## Subtitle D—Other Trade Provisions

**SEC. 1181. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.**

(a) IN GENERAL.—Subheading 9804.00.65 of the Harmonized Tariff Schedule of the United States is amended in the article description column by striking ''$400'' and inserting ''$800''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of enactment of this Act.

**SEC. 1182. REGULATORY AUDIT PROCEDURES.**

Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended by adding at the end the following:

''(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

''(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.''.

## Subtitle E—Sense of Senate

**SEC. 1191. SENSE OF SENATE.**

It is the sense of the Senate that fees collected for certain customs services (commonly referred to as ''customs user fees'') provided for in section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) may be used only for the operations and programs of the United States Customs Service.

# DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

# TITLE XXI—TRADE PROMOTION AUTHORITY

**SEC. 2101. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This title may be cited as the ''Bipartisan Trade Promotion Authority Act of 2002''.

(b) FINDINGS.—Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Nevertheless, in several cases, dispute settlement panels and the WTO Appellate Body have added to obligations and diminished rights of the United States under WTO Agreements. In particular, dispute settlement panels and the Appellate Body have—

(A) given insufficient deference to the expertise and fact-finding of the Department of Commerce and the United States International Trade Commission;

(B) imposed an obligation concerning the causal relationship between increased imports into the United States and serious injury to domestic industry necessary to support a safeguard measure that is different from the obligation set forth in the applicable WTO Agreements;

(C) imposed an obligation concerning the exclusion from safeguards measures of products imported from countries party to a free trade agreement that is different from the obligation set forth in the applicable WTO Agreements;

(D) imposed obligations on the Department of Commerce with respect to the use of facts available in antidumping investigations that are different from the obligations set forth in the applicable WTO Agreements; and

(E) accorded insufficient deference to the Department of Commerce's methodology for adjusting countervailing duties following the privatization of a subsidized foreign producer.

**SEC. 2102. TRADE NEGOTIATING OBJECTIVES.**

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 2103 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the International Labor Organization (as defined in section 2113(2)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade; and

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small business.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) TRADE BARRIERS AND DISTORTIONS.—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) TRADE IN SERVICES.—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade-distorting barriers to trade-related foreign investment, while ensuring that United States investors in the United States are not accorded lesser rights than foreign investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) establishment of a single appellate body to review decisions in investor-to-government disputes and thereby provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public;

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms; and

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—

(A) IN GENERAL.—The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) seeking to eliminate all export subsidies on agricultural commodities while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating Government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade; and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that the use of import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry;

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs; and

(xvi) strive to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seek the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B) CONSULTATION.—

(i) BEFORE COMMENCING NEGOTIATIONS.—Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) DURING NEGOTIATIONS.—During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) SCOPE OF OBJECTIVE.—The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 2103 (a) or (b), including any trade agreement entered into under section 2103 (a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and

that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(2));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek improved adherence by panels convened under the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes and by the WTO Appellate Body to the standard of review applicable under the WTO Agreement involved in the dispute, including greater deference, where appropriate, to the fact finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(14) WTO EXTENDED NEGOTIATIONS.—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(2)), and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999 and the relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, modeled after Executive Order 13141, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) have the Secretary of Labor consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) in connection with any trade negotiations entered into under this Act, the President shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating, on a time frame determined in accordance with section 2107(b)(2)(E);

(9)(A) preserve the ability of the United States to enforce rigorously its trade laws, including the antidumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this title applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report required under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this title, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 2107 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this title, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 2107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining

whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

**SEC. 2103. TRADE AGREEMENTS AUTHORITY.**

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

(i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and

(ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 2105 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2102(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—

(A) DETERMINATION BY PRESIDENT.—Whenever the President determines that—

(i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) AGREEMENT TO REDUCE OR ELIMINATE CERTAIN DISTORTION.—The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A), or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) TIME PERIOD.—The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2102 (a) and (b) and the President satisfies the conditions set forth in section 2104.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—

(A) APPLICATION OF EXPEDITED PROCEDURES.—The provisions of section 151 of the Trade Act of 1974 (in this title referred to as ''trade authorities procedures'') apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an ''implementing bill''.

(B) PROVISIONS DESCRIBED.—The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 2105(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY ITC.—The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—

(A) DEFINITION.—For purposes of paragraph (1), the term ''extension disapproval resolution'' means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: ''That the _____ disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.'', with the blank space being filled with the name of the resolving House of the Congress.

(B) INTRODUCTION.—Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) APPLICATION OF SECTION 152 OF THE TRADE ACT OF 1974.—The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) LIMITATIONS.—It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2102(b).

**SEC. 2104. CONSULTATIONS AND ASSESSMENT.**

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 2103(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 2107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 2107(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE AND FISHING INDUSTRY.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2102(b)(10)(A)(i) with any country, the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—

(A) IN GENERAL.—Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) IDENTIFICATION OF ADDITIONAL AGRICULTURAL PRODUCTS.—If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 2103(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 2107.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 2105, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate in writing of any amendments to title VII of the Tariff Act of 1930 or chapter 1 of title II of the Trade Act of 1974 that the President proposes to include in a bill implementing such trade agreement.

(B) EXPLANATION.—On the date that the President transmits the notification, the President also shall transmit to the Committees a report explaining—

(i) the President's reasons for believing that amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974 are necessary to implement the trade agreement; and

(ii) the President's reasons for believing that such amendments are consistent with the purposes, policies, and objectives described in section 2102(c)(9).

(C) REPORT TO HOUSE.—Not later than 60 calendar days after the date on which the President transmits the notification described in subparagraph (A), the Chairman and ranking member of the Ways and Means Committee of the House of Representatives, based on consultations with the members of that Committee, shall issue to the House of Representatives a report stating whether the proposed amendments described in the President's notification are consistent with the purposes, policies, and objectives described in section 2102(c)(9). In the event that the Chairman and ranking member disagree with respect to one or more conclusions, the report shall contain the separate views of the Chairman and ranking member.

(D) REPORT TO SENATE.—Not later than 60 calendar days after the date on which the President transmits the notification described in subparagraph (A), the Chairman and ranking member of the Finance Committee of the Senate, based on consultations with the members of that Committee, shall issue to the Senate a report stating whether the proposed amendments described in the President's report are consistent with the purposes, policies, and objectives described in section 2102(c)(9). In the event that the Chairman and ranking member disagree with respect to one or more conclusions, the report shall contain the separate views of the Chairman and ranking member.

(e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 2103 (a) or (b) of this title shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 2103(a)(1) or 2105(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

(1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall provide the International Trade Commission (referred to in this subsection as ''the Commission'') with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

(2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

**SEC. 2105. IMPLEMENTATION OF TRADE AGREEMENTS.**

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 2103(b) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which the President enters into an agreement—

(i) notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register; and

(ii) transmits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the notification and report described in section 2104(d)(3) (A) and (B);

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 2103(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this title; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 2103(b)(3);

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2102(c) regarding the promotion of certain priorities; and

(VI) in the event that the reports described in section 2104(b)(3) (C) and (D) contain any findings that the proposed amendments are inconsistent with the purposes, policies, and objectives described in section 2102(c)(9), an explanation as to why the President believes such findings to be incorrect.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 2103(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which Congress enacts implementing legislation under trade authorities procedures, and

(B) is not disclosed to Congress before legislation implementing that agreement is introduced in either House of Congress,

shall not be considered to be part of the agreement approved by Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 2103(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term ''procedural disapproval resolution'' means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: ''That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.'', with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has ''failed or refused to notify or consult in

accordance with the Bipartisan Trade Promotion Authority Act of 2002'' on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 2104 or 2105 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 2107(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 2107(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(C) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(i) Procedural disapproval resolutions—

(I) in the House of Representatives—

(aa) may be introduced by any Member of the House;

(bb) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(cc) may not be amended by either Committee; and

(II) in the Senate—

(aa) may be introduced by any Member of the Senate.

(bb) shall be referred to the Committee on Finance; and

(cc) may not be amended.

(ii) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been considered under such provisions of section 152 of the Trade Act of 1974 in that House of Congress during that Congress.

(iii) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(iv) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

(2) FOR FAILURE TO MEET OTHER REQUIREMENTS.—Prior to December 31, 2002, the Secretary of Commerce shall transmit to Congress a report setting forth the strategy of the United States for correcting instances in which dispute settlement panels and the Appellate Body of the WTO have added to obligations or diminished rights of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO, unless the Secretary of Commerce has issued such report in a timely manner.

(c) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsection (b) of this section and section 2103(c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

**SEC. 2106. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.**

(a) CERTAIN AGREEMENTS.—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a), if an agreement to which section 2103(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) TREATMENT OF AGREEMENTS.—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred to in section 2104(a)(2) and the Congressional Oversight Group.

**SEC. 2107. CONGRESSIONAL OVERSIGHT GROUP.**

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking Member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in negotiations for any trade agreement to which this title applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group established under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2102(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 2102(c)(8).

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

**SEC. 2108. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.**

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 2105(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement.

The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement, including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

**SEC. 2109. COMMITTEE STAFF.**

The grant of trade promotion authority under this title is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

**SEC. 2110. CONFORMING AMENDMENTS.**

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking ''section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act'' and inserting ''section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking ''or section 282 of the Uruguay Round Agreements Act'' and inserting '', section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002''.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking ''section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 123 of this Act or section 2103 (a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002,''; and

(ii) in paragraph (2), by striking ''section 1102 (b) or (c) of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (b), by striking ''section 1102(a)(3)(A)'' and inserting ''section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002''; and

(C) in subsection (c), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988,'' each place it appears and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,''.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002'';

(B) in subsection (e)(1)—

(i) by striking ''section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' each place it appears and inserting ''section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''; and

(ii) by striking ''not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement'' and inserting ''not later than the date that is 30 days after the date on which the President notifies the Congress under section 5(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002 of the President's intention to enter into that agreement''; and

(C) in subsection (e)(2), by striking ''section 1101 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''section 2102 of the Bipartisan Trade Promotion Authority Act of 2002''.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking ''or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988'' and inserting ''or under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002''.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 2103 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2103 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

**SEC. 2111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

(b) AGREEMENTS.—The trade agreements described in this subsection are:

(1) The United States-Israel Free Trade Agreement.

(2) The United States-Canada Free Trade Agreement.

(3) The North American Free Trade Agreement.

(4) The Uruguay Round Agreements.

(5) The Tokyo Round of Multilateral Trade Negotiations.

**SEC. 2112. IDENTIFICATION OF SMALL BUSINESS ADVOCATE AT WTO.**

(a) IN GENERAL.—The United States Trade Representative shall pursue the identification of a small business advocate at the World Trade Organization Secretariat to examine the impact of WTO agreements on the interests of small- and medium-sized enterprises, address the concerns of small- and medium-sized enterprises, and recommend ways to address those interests in trade negotiations involving the World Trade Organization.

(b) ASSISTANT TRADE REPRESENTATIVE.—The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It is the sense of Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the United States Trade Representative shall prepare and submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the steps taken by the United States Trade Representative to pursue the identification of a small business advocate at the World Trade Organization.

**SEC. 2113. DEFINITIONS.**

In this title:

(1) AGREEMENT ON AGRICULTURE.—The term ''Agreement on Agriculture'' means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) CORE LABOR STANDARDS.—The term ''core labor standards'' means—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) a prohibition on the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(3) GATT 1994.—The term ''GATT 1994'' has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(4) ILO.—The term ''ILO'' means the International Labor Organization.

(5) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term ''import sensitive agricultural product'' means an agricultural product with respect to which, as a result of the Uruguay Round Agreements—

(A) the rate of duty was the subject of tariff reductions by the United States, and pursuant to such Agreements, was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) became subject to a tariff-rate quota on or after January 1, 1995.

(6) UNITED STATES PERSON.—The term ''United States person'' means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(7) URUGUAY ROUND AGREEMENTS.—The term ''Uruguay Round Agreements'' has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(8) WORLD TRADE ORGANIZATION; WTO.—The terms ''World Trade Organization'' and ''WTO'' mean the organization established pursuant to the WTO Agreement.

(9) WTO AGREEMENT.—The term ''WTO Agreement'' means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

## DIVISION C—ANDEAN TRADE PREFERENCE ACT

## TITLE XXXI—ANDEAN TRADE PREFERENCE

**SEC. 3101. SHORT TITLE; FINDINGS.**

(a) SHORT TITLE.—This title may be cited as the ''Andean Trade Preference Expansion Act''.

(b) FINDINGS.—Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiaries countries will promote the growth of free enterprise and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

**SEC. 3102. TEMPORARY PROVISIONS.**

(a) IN GENERAL.—Section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) is amended to read as follows:

''(b) IMPORT-SENSITIVE ARTICLES.—

''(1) IN GENERAL.—Subject to paragraphs (2) through (5), the duty-free treatment provided under this title does not apply to—

''(A) textile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

''(B) footwear not designated at the time of the effective date of this title as eligible articles for the purpose of the generalized system of preferences under title V of the Trade Act of 1974;

''(C) tuna, prepared or preserved in any manner, in airtight containers;

''(D) petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS;

''(E) watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital, or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply;

''(F) articles to which reduced rates of duty apply under subsection (c);

''(G) sugars, syrups, and sugar containing products subject to tariff-rate quotas; or

''(H) rum and tafia classified in subheading 2208.40 of the HTS.

''(2) TRANSITION PERIOD TREATMENT OF CERTAIN TEXTILE AND APPAREL ARTICLES.—

''(A) ARTICLES COVERED.—During the transition period, the preferential treatment described in subparagraph (B) shall apply to the following articles imported directly into the customs territory of the United States from an ATPEA beneficiary country:

''(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES AND ATPEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

''(I) Fabrics or fabric components formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States), provided that apparel articles sewn or otherwise assembled from materials described in this subclause are assembled with thread formed in the United States.

''(II) Fabric components knit-to-shape in the United States from yarns wholly formed in the United States and fabric components knit-to-shape in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(III) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPEA beneficiary countries, from yarns wholly formed in 1 or more ATPEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPEA beneficiary countries) or components are in chief weight of llama, or alpaca.

''(IV) Fabrics or yarns that are not formed in the United States or in 1 or more ATPEA beneficiary countries, to the extent such fabrics or yarns are considered not to be widely available in commercial quantities for purposes of determining the eligibility of such apparel articles for preferential treatment under Annex 401 of the NAFTA.

''(ii) KNIT-TO-SHAPE APPAREL ARTICLES.—Apparel articles knit-to-shape (other than socks provided for in heading 6115 of the HTS) in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States.

''(iii) REGIONAL FABRIC.—

''(I) GENERAL RULE.—Knit apparel articles wholly assembled in 1 or more ATPEA beneficiary countries exclusively from fabric formed, or fabric components formed, or components knit-to-shape, or any combination thereof, in 1 or more ATPEA beneficiary countries from yarns wholly formed in the United States, in an amount not exceeding the amount set forth in subclause (II).

''(II) LIMITATION.—The amount referred to in subclause (I) is 70,000,000 square meter equivalents during the 1-year period beginning on March 1, 2002, increased by 16 percent, compounded annually, in each succeeding 1-year period through February 28, 2006.

''(iv) CERTAIN OTHER APPAREL ARTICLES.—

''(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, if the article is both cut and sewn or otherwise assembled in the United States, or one or more of the ATPEA beneficiary countries, or both.

''(II) LIMITATION.—During the 1-year period beginning on March 1, 2003, and during each of the 2 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity that are entered during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabric components formed in the United States used in the production of such articles of that producer or entity that are entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period.

''(v) APPAREL ARTICLES ASSEMBLED FROM FABRICS OR YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarn as eligible for preferential treatment under clause (i)(IV) if—

''(I) the President determines that such fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner;

''(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C.

2155) and the United States International Trade Commission;

''(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the action proposed to be proclaimed and the reasons for such actions, and the advice obtained under subclause (II);

''(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

''(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

''(vi) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

''(vii) SPECIAL RULES.—

''(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, 'bow buds', decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and are used in the production of brassieres.

''(bb) In the case of an article described in clause (i)(I) of this subparagraph, sewing thread shall not be treated as findings or trimmings under this subclause.

''(II) CERTAIN INTERLININGS.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

''(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, 'hymo' piece, or 'sleeve header', of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

''(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

''(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this paragraph because the article contains yarns not wholly formed in the United States or in 1 or more ATPEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good. Notwithstanding the preceding sentence, an apparel article containing elastomeric yarns shall be eligible for preferential treatment under this paragraph only if such yarns are wholly formed in the United States.

''(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) of this subparagraph shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

''(V) CLARIFICATION OF CERTAIN KNIT APPAREL ARTICLES.—Notwithstanding any other provision of law, an article otherwise eligible for preferential treatment under clause (iii)(I) of this subparagraph, shall not be ineligible for such treatment because the article, or a component thereof, contains fabric formed in the United States from yarns wholly formed in the United States.

''(viii) TEXTILE LUGGAGE.—Textile luggage—

''(I) assembled in an ATPEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

''(II) assembled from fabric cut in an ATPEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

''(B) PREFERENTIAL TREATMENT.—Except as provided in subparagraph (E), during the transition period, the articles to which subparagraph (A) applies shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels.

''(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (A)(vi), the President shall consult with representatives of the ATPEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

''(D) PENALTIES FOR TRANSSHIPMENTS.—

''(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to textile or apparel articles from an ATPEA beneficiary country, then the President shall deny all benefits under this title to such exporter, and any successor of such exporter, for a period of 2 years.

''(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of textile and apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

''(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (B) has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (B).

''(E) BILATERAL EMERGENCY ACTIONS.—

''(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPEA beneficiary country if the application of tariff treatment under subparagraph (B) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

''(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

''(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

''(II) the term 'transition period' in section 4 of the Annex shall have the meaning given that term in paragraph (5)(D) of this subsection; and

''(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4.

''(3) TRANSITION PERIOD TREATMENT OF CERTAIN OTHER ARTICLES ORIGINATING IN BENEFICIARY COUNTRIES.—

''(A) EQUIVALENT TARIFF TREATMENT.—

''(i) IN GENERAL.—Subject to clause (ii), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B), (D) through (F), or (H) of paragraph (1) that is an ATPEA originating good, imported directly into the customs territory of the United States from an ATPEA beneficiary country, shall be identical to the tariff treatment that is accorded at such time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTS that is a good of Mexico and is imported into the United States.

''(ii) EXCEPTION.—Clause (i) does not apply to—

''(I) any article accorded duty-free treatment under U.S. Note 2(b) to subchapter II of chapter 98 of the HTS; or

''(II) any article described in subheading 6401.10.00, 6401.91.00, 6401.92.90, 6401.99.30, 6401.99.60, 6401.99.90, 6402.30.50, 6402.30.70, 6402.30.80, 6402.91.50, 6402.91.80, 6402.91.90, 6402.99.20, 6402.99.30, 6402.99.80, 6402.99.90, 6403.91.60, 6404.11.50, 6404.11.60, 6404.11.70, 6404.11.80, 6404.11.90, 6404.19.20, 6404.19.35, 6404.19.50, or 6404.19.70 of the HTS.

''(B) RELATIONSHIP TO SUBSECTION (C) DUTY REDUCTIONS.—If at any time during the transition period the rate of duty that would (but for action taken under subparagraph (A)(i) in regard to such period) apply with respect to any article under subsection (c) is a rate of duty that is lower than the rate of duty resulting from such action, then such lower rate of duty shall be applied for the purposes of implementing such action.

''(C) SPECIAL RULE FOR SUGARS, SYRUPS, AND SUGAR CONTAINING PRODUCTS.—Duty-free treatment under this Act shall not be extended to sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas.

''(D) SPECIAL RULE FOR CERTAIN TUNA PRODUCTS.—

''(i) IN GENERAL.—The President may proclaim duty-free treatment under this Act for tuna that is harvested by United States vessels or ATPEA beneficiary country vessels, and is prepared or preserved in any manner, in airtight containers in an ATPEA beneficiary country. Such duty-free treatment may be proclaimed in any calendar year for a quantity of such tuna that does not exceed 20 percent of the domestic United States tuna pack in the preceding calendar year. As used in the preceding sentence, the term

'tuna pack' means tuna pack as defined by the National Marine Fisheries Service of the United States Department of Commerce for purposes of subheading 1604.14.20 of the HTS as in effect on the date of enactment of the Andean Trade Preference Expansion Act.

''(ii) UNITED STATES VESSEL.—For purposes of this subparagraph, a 'United States vessel' is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

''(iii) ATPEA VESSEL.—For purposes of this subparagraph, an 'ATPEA vessel' is a vessel—

''(I) which is registered or recorded in an ATPEA beneficiary country;

''(II) which sails under the flag of an ATPEA beneficiary country;

''(III) which is at least 75 percent owned by nationals of an ATPEA beneficiary country or by a company having its principal place of business in an ATPEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPEA beneficiary country or by public bodies or nationals of an ATPEA beneficiary country;

''(IV) of which the master and officers are nationals of an ATPEA beneficiary country; and

''(V) of which at least 75 percent of the crew are nationals of an ATPEA beneficiary country.

''(4) CUSTOMS PROCEDURES.—

''(A) IN GENERAL.—

''(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (2) or (3) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

''(ii) DETERMINATION.—

''(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (2) or (3) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

''(aa) has implemented and follows; or

''(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

''(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPEA beneficiary country—

''(aa) from which the article is exported; or

''(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (2) or (3).

''(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (2) or (3) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

''(C) REPORT BY USTR ON COOPERATION OF OTHER COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPEA beneficiary country—

''(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

''(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning fiber content, quantities, description, classification, or origin of textile and apparel goods; and

''(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Trade Representative shall submit to Congress, not later than October 1, 2002, a report on the study conducted under this subparagraph.

''(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

''(A) ANNEX.—The term 'the Annex' means Annex 300–B of the NAFTA.

''(B) ATPEA BENEFICIARY COUNTRY.—The term 'ATPEA beneficiary country' means any 'beneficiary country', as defined in section 203(a)(1) of this title, which the President designates as an ATPEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

''(i) Whether the beneficiary country has demonstrated a commitment to—

''(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

''(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

''(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

''(iii) The extent to which the country provides internationally recognized worker rights, including—

''(I) the right of association;

''(II) the right to organize and bargain collectively;

''(III) a prohibition on the use of any form of forced or compulsory labor;

''(IV) a minimum age for the employment of children; and

''(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

''(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

''(v) The extent to which the country has met the counter-narcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

''(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

''(vii) The extent to which the country—

''(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

''(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

''(C) ATPEA ORIGINATING GOOD.—

''(i) IN GENERAL.—The term 'ATPEA originating good' means a good that meets the rules of origin for a good set forth in chapter 4 of the NAFTA as implemented pursuant to United States law.

''(ii) APPLICATION OF CHAPTER 4.—In applying chapter 4 of the NAFTA with respect to an ATPEA beneficiary country for purposes of this subsection—

''(I) no country other than the United States and an ATPEA beneficiary country may be treated as being a party to the NAFTA;

''(II) any reference to trade between the United States and Mexico shall be deemed to refer to trade between the United States and an ATPEA beneficiary country;

''(III) any reference to a party shall be deemed to refer to an ATPEA beneficiary country or the United States; and

''(IV) any reference to parties shall be deemed to refer to any combination of ATPEA beneficiary countries or to the United States and one or more ATPEA beneficiary countries (or any combination thereof).

''(D) TRANSITION PERIOD.—The term 'transition period' means, with respect to an ATPEA beneficiary country, the period that begins on the date of enactment, and ends on the earlier of—

''(i) February 28, 2006; or

''(ii) the date on which the FTAA or another free trade agreement that makes substantial progress in achieving the negotiating objectives set forth in section 108(b)(5) of Public Law 103–182 (19 U.S.C. 3317(b)(5)) enters into force with respect to the United States and the ATPEA beneficiary country.

''(E) ATPEA.—The term 'ATPEA' means the Andean Trade Preference Expansion Act.

''(F) FTAA.—The term 'FTAA' means the Free Trade Area of the Americas.''.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e) of the Andean Trade Preference Act (19 U.S.C. 3202(e)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting ''(A)'' after ''(1)''; and

(C) by adding at the end the following:

''(B) The President may, after the requirements of paragraph (2) have been met—

''(i) withdraw or suspend the designation of any country as an ATPEA beneficiary country; or

''(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b) (2) and (3) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(5)(B).''; and

(2) by adding after paragraph (2) the following new paragraph:

''(3) If preferential treatment under section 204(b) (2) and (3) is withdrawn, suspended, or limited with respect to an ATPEA beneficiary country, such country shall not be deemed to be a 'party' for the purposes of applying section 204(b)(5)(C) to imports of articles for which preferential treatment has been withdrawn, suspended, or limited with respect to such country.''.

(c) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

''(f) REPORTING REQUIREMENTS.—

''(1) IN GENERAL.—Not later than December 31, 2002, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to Congress a report regarding the operation of this title, including—

''(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

''(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(5)(B).

''(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(5)(B).''.

(d) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting ''(or other preferential treatment)'' after ''treatment''.

(B) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or otherwise provided for)'' after ''eligibility''.

(C) Section 204(a)(1) of the Andean Trade Preference Act (19 U.S.C. 3203(a)(1)) is amended by inserting ''(or preferential treatment)'' after ''duty-free treatment''.

(2) DEFINITIONS.—Section 203(a) of the Andean Trade Preference Act (19 U.S.C. 3202(a)) is amended by adding at the end the following new paragraphs:

''(4) The term ''NAFTA'' means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

''(5) The terms 'WTO' and 'WTO member' have the meanings given those terms in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).''.

(e) PETITIONS FOR REVIEW.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the President shall promulgate regulations regarding the review of eligibility of articles and countries under the Andean Trade Preference Act, consistent with section 203(e) of such Act, as amended by this title.

(2) CONTENT OF REGULATIONS.—The regulations shall be similar to the regulations regarding eligibility under the Generalized System of Preferences with respect to the timetable for reviews and content, and shall include procedures for requesting withdrawal, suspension, or limitations of preferential duty treatment under the Act, conducting reviews of such requests, and implementing the results of the reviews.

**SEC. 3103. TERMINATION.**

(a) IN GENERAL.—Section 208(b) of the Andean Trade Preference Act (19 U.S.C. 3206(b)) is amended to read as follows:

''(b) TERMINATION OF PREFERENTIAL TREATMENT.—No preferential duty treatment extended to beneficiary countries under this Act shall remain in effect after February 28, 2006.''.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), the entry—

(A) of any article to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act (19 U.S.C. 3201 et seq.) would have applied if the entry had been made on December 4, 2001,

(B) that was made after December 4, 2001, and before the date of the enactment of this Act, and

(C) to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act did not apply,

shall be liquidated or reliquidated as if such duty-free treatment (or preferential treatment) applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

**TITLE XXXII—MISCELLANEOUS TRADE BENEFITS**

**SEC. 3201. WOOL PROVISIONS.**

(a) SHORT TITLE.—This section may be cited as the ''Wool Manufacturer Payment Clarification and Technical Corrections Act''.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting ''average'' before ''diameters''.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking ''In each of the calendar years'' and inserting ''For each of the calendar years''; and

(ii) by striking ''for a refund of duties'' and all that follows through the end of the subsection and inserting ''for a payment equal to an amount determined pursuant to subsection (d)(1).''.

(B) Subsection (b) is amended to read as follows:

''(b) WOOL YARN.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).''.

(C) Subsection (c) is amended to read as follows:

''(c) WOOL FIBER AND WOOL TOP.—

''(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

''(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).''.

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections:

''(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

''(1) MANUFACTURERS OF MEN'S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

''(A) ELIGIBLE TO RECEIVE MORE THAN $5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying $30,124,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than $5,000 for each such calendar year under this section as it was in effect on that date.

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported worsted wool fabrics described in subsection (a).

''(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturers to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing $1,665,000 by the number of all such other manufacturers.

''(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying $2,202,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool yarn described in subsection (b)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying $141,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

''(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

''(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying $1,522,000 by a fraction—

''(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

''(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

''(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term 'eligible wool products' refers to imported wool fiber or wool top described in subsection (c)(1).

''(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying $597,000 by a fraction—

''(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

''(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

''(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

''(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NONIMPORTING MANUFACTURERS.—

''(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant's belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

''(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

''(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

''(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 9902.51.14 of such Schedule purchased in calendar year 1999.

''(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

''(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

''(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first and second installments on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second installment on or before April 15, 2003.

''(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

''(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the 'records of the Customs Service as of September 11, 2001' are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

''(e) AFFIDAVITS BY MANUFACTURERS.—

''(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

''(2) TIMING.—An affidavit under paragraph (1) shall be valid—

''(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

''(B) in the case of a claim for a payment for calendar year 2002, only if the affidavit is postmarked no later than March 1, 2003.

''(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

''(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

''(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men's or boys' suits, suit-type jackets, or trousers;

''(2) imported wool yarn, of the kind described in heading 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

''(3) imported wool fiber or wool top, of the kind described in heading 9902.51.14 of such Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.''.

(2) FUNDING.—There is authorized to be appropriated and is appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, $36,251,000 to carry out the amendments made by paragraph (1).

**SEC. 3202. CEILING FANS.**

(a) IN GENERAL.—Notwithstanding any other provision of law, ceiling fans classified under subheading 8414.51.00 of the Harmonized Tariff Schedule of the United States imported from Thailand shall enter duty-free and without any quantitative limitations, if duty-free treatment under title V of the Trade Act of 1974 (19 U.S.C. 2461 et seq.) would have applied to such entry had the competitive need limitation been waived under section 503(d) of such Act.

(b) APPLICABILITY.—The provisions of this section shall apply to ceiling fans described in subsection (a) that are entered, or withdrawn from warehouse for consumption—

(1) on or after the date that is 15 days after the date of enactment of this Act; and

(2) before July 30, 2002.

**SEC. 3203. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.**

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking ''4.9%'' and inserting ''Free''; and

(2) by striking ''12/31/2003'' and inserting ''12/31/2006''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(2) RETROACTIVE APPLICATION.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry,

shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) ENTRY.—As used in this subsection, the term ''entry'' includes a withdrawal from warehouse for consumption.

(4) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

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**SA 3387.** Mr. DORGAN (for himself and Mr. CRAIG) proposed an amendment to amendment SA 3386 proposed by Mr. DASCHLE to the bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. ___. SECRET TRIBUNALS.**

(a) FINDINGS.—Congress makes the following findings:

(1) Chapter Eleven of the North American Free Trade Agreement (''NAFTA'') allows foreign investors to file claims against signatory countries that directly or indirectly nationalize or expropriate an investment, or take measures ''tantamount to nationalization or expropriation'' of such an investment.

(2) Foreign investors have filed several claims against the United States, arguing that regulatory activity has been ''tantamount to nationalization or expropriation''. Most notably, a Canadian chemical company claimed $970,000,000 in damages allegedly resulting from a California State regulation banning the use of a gasoline additive produced by that company.

(3) A claim under Chapter Eleven of the NAFTA is adjudicated by a three-member panel, whose deliberations are largely secret.

(4) While it may be necessary to protect the confidentiality of business sensitive information, the general lack of transparency of these proceedings has been excessive.

(b) PURPOSE.—The purpose of this amendment is to ensure that the proceedings of the NAFTA investor protection tribunals are as transparent as possible, consistent with the need to protect the confidentiality of business sensitive information.

(c) CHAPTER 11 OF NAFTA.—The President shall negotiate with Canada and Mexico an amendment to Chapter Eleven of the NAFTA to ensure the fullest transparency possible with respect to the dispute settlement mechanism in that Chapter, consistent with the need to protect information that is classified or confidential, by—

(1) ensuring that all requests for dispute settlement under Chapter Eleven are promptly made public;

(2) ensuring that with respect to Chapter Eleven—

(A) all proceedings, submissions, findings, and decisions are promptly made public; and

(B) all hearings are open to the public; and

(3) establishing a mechanism under that Chapter for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(d) CERTIFICATION REQUIREMENTS.—Within one year of the enactment of this Act, the U.S. Trade Representative shall certify to Congress that the President has fulfilled the requirements set forth in subsection (c).

## NOTICES OF HEARINGS/MEETINGS

### SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. BINGAMAN. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, May 9, 2002, at 2:30 p.m. in room 366 of the Dirksen Senate Office Building in Washington, D.C.

The purpose of the hearing is to receive testimony on the following bills:

S. 454, to provide permanent funding for the Bureau of Land Management Payment in Lieu of Taxes program and for other purposes;

S. 1139, to direct the Secretary of Agriculture to convey certain land to Lander County, Nevada, and the Secretary of the Interior to convey certain land to Eureka County, Nevada, for continued use as cemeteries.

S. 1325, to ratify an agreement between the Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes;

S. 1497 and H.R. 2385, to convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes;

S. 1711 and H.R. 1576, to designate the James Peak Wilderness and the James Peak Protection Area in the State of Colorado, and for other purposes; and

S. 1907, to direct the Secretary of the Interior to convey certain land to the city of Haines, Oregon.

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, 312 Dirksen Senate Office Building, Washington, DC 20510.

For further information, please contact David Brooks (202) 224–9863 or John Watts of the committee staff at (202) 224–5488.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. REID. 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 Wednesday, May 1, 2002, at 9:30 a.m. to conduct an oversight hearing on ''The Treasury Department's Report to Congress on International Economic and Exchange Rate Policy.''

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

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet Wednesday, May 1, 2002, on the FY 2003 Budget and Programs of NOAA.

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

### COMMITTEE ON FOREIGN RELATIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, May 1, 2002 at 10:15 a.m. to hold a hearing titled, The Future of NATO.

Agenda

*WITNESSES*

Panel 1: The Honorable Marc Grossman, Under Secretary for Political Affairs, Department of State, Washington, DC; and the Honorable Douglas Feith, Under Secretary for Policy, Department of Defense, Washington, DC.

Panel 2: General Wesley K. Clark, USA (ret.), Former Supreme Allied Commander Europe, The Stephens Group, Washington, DC; and Lt. General William E. Odom USA (ret.), Former Director, National Security Agency, Yale University & The Hudson Institute, Washington, DC.

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

### COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Mr. REID. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet in executive session during the session of the Senate on Wednesday, May 1, 2002, after the first afternoon floor vote.

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

### SELECT COMMITTEE ON INTELLIGENCE

Mr. REID. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 1, 2002 at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

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

### SUBCOMMITTEE ON HOUSING AND TRANSPORTATION

Mr. REID. Mr. President, I ask unanimous consent that the subcommittee on Housing and Transportation of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, May 1, 2002 at 2:30 p.m. to conduct an oversight hearing on ''TANF Reauthorization and Federal Housing Policy.''

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

## NATIONAL LABORATORIES PARTNERSHIP IMPROVEMENT ACT OF 2001

On April 25, 2002, the Senate amended and passed H.R. 4, as follows:

*Resolved,* That the bill from the House of Representatives (H.R. 4) entitled ''An Act to enhance energy conservation, research and development and to provide for security and diversity in the energy supply for the American people, and for other purposes.'', do pass with the following amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Energy Policy Act of 2002''.*

***SEC. 2. TABLE OF CONTENTS.***

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*Sec. 2. Table of contents.*

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*Sec. 210. Electric power transmission systems.*

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*Sec. 223. Repeal of the Public Utility Holding Company Act of 1935.*
*Sec. 224. Federal access to books and records.*
*Sec. 225. State access to books and records.*
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*Sec. 2103. Credit for residential energy efficient property.*
*Sec. 2104. Credit for business installation of qualified fuel cells and stationary microturbine power plants.*
*Sec. 2105. Energy efficient commercial buildings deduction.*
*Sec. 2106. Allowance of deduction for qualified new or retrofitted energy management devices.*
*Sec. 2107. Three-year applicable recovery period for depreciation of qualified energy management devices.*
*Sec. 2108. Energy credit for combined heat and power system property.*
*Sec. 2109. Credit for energy efficiency improvements to existing homes.*
*Sec. 2110. Allowance of deduction for qualified new or retrofitted water submetering devices.*
*Sec. 2111. Three-year applicable recovery period for depreciation of qualified water submetering devices.*

*TITLE XXII—CLEAN COAL INCENTIVES*

*Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-based Electricity Generation Facilities*

*Sec. 2201. Credit for production from a qualifying clean coal technology unit.*

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*Sec. 2211. Credit for investment in qualifying advanced clean coal technology.*
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*Subtitle C—Treatment of Persons Not Able To Use Entire Credit*

*Sec. 2221. Treatment of persons not able to use entire credit.*

*TITLE XXIII—OIL AND GAS PROVISIONS*

*Sec. 2301. Oil and gas from marginal wells.*
*Sec. 2302. Natural gas gathering lines treated as 7-year property.*
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*TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS*

*Sec. 2401. Ongoing study and reports regarding tax issues resulting from future restructuring decisions.*
*Sec. 2402. Modifications to special rules for nuclear decommissioning costs.*
*Sec. 2403. Treatment of certain income of cooperatives.*
*Sec. 2404. Sales or dispositions to implement Federal Energy Regulatory Commission or State electric restructuring policy.*
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*TITLE XXV—ADDITIONAL PROVISIONS*

*Sec. 2501. Extension of accelerated depreciation and wage credit benefits on Indian reservations.*
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*Sec. 2505. Treatment of dairy property.*
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*DIVISION I—IRAQ OIL IMPORT RESTRICTION*

*TITLE XXVI—IRAQ OIL IMPORT RESTRICTION*

*Sec. 2601. Short title and findings.*
*Sec. 2602. Prohibition on Iraqi-origin petroleum imports.*
*Sec. 2603. Termination/Presidential certification.*
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*Sec. 2606. Effective date.*

*DIVISION J—MISCELLANEOUS*

*TITLE XXVII—MISCELLANEOUS PROVISION*

*Sec. 2701. Fair treatment of Presidential judicial nominees.*

***DIVISION A—RELIABLE AND DIVERSE POWER GENERATION AND TRANSMISSION***

***TITLE I—REGIONAL COORDINATION***

***SEC. 101. POLICY ON REGIONAL COORDINATION.***

*(a) STATEMENT OF POLICY.—It is the policy of the Federal Government to encourage States to coordinate, on a regional basis, State energy policies to provide reliable and affordable energy services to the public while minimizing the impact of providing energy services on communities and the environment.*

*(b) DEFINITION OF ENERGY SERVICES.—For purposes of this section, the term ''energy services'' means—*

*(1) the generation or transmission of electric energy,*

*(2) the transportation, storage, and distribution of crude oil, residual fuel oil, refined petroleum product, or natural gas, or*

*(3) the reduction in load through increased efficiency, conservation, or load control measures.*

***SEC. 102. FEDERAL SUPPORT FOR REGIONAL COORDINATION.***

*(a) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide technical assistance to States and regional organizations formed by two or more States to assist them in coordinating their energy policies on a regional basis. Such technical assistance may include assistance in—*

*(1) identifying the areas with the greatest energy resource potential, and assessing future supply availability and demand requirements,*

*(2) planning, coordinating, and siting additional energy infrastructure, including generating facilities, electric transmission facilities, pipelines, refineries, and distributed generation facilities to maximize the efficiency of energy resources and infrastructure and meet regional needs with the minimum adverse impacts on the environment,*

*(3) identifying and resolving problems in distribution networks,*

*(4) developing plans to respond to surge demand or emergency needs, and*

*(5) developing renewable energy, energy efficiency, conservation, and load control programs.*

*(b) ANNUAL CONFERENCE ON REGIONAL ENERGY COORDINATION.—*

*(1) ANNUAL CONFERENCE.—The Secretary of Energy shall convene an annual conference to promote regional coordination on energy policy and infrastructure issues.*

*(2) PARTICIPATION.—The Secretary of Energy shall invite appropriate representatives of Federal, State, and regional energy organizations, and other interested parties.*

*(3) STATE AND FEDERAL AGENCY COOPERATION.—The Secretary of Energy shall consult and cooperate with State and regional energy organizations, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of the Treasury, the Chairman of the Federal Energy Regulatory Commission, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality in the planning and conduct of the conference.*

*(4) AGENDA.—The Secretary of Energy, in consultation with the officials identified in paragraph (3) and participants identified in paragraph (2), shall establish an agenda for each conference that promotes regional coordination on energy policy and infrastructure issues.*

*(5) RECOMMENDATIONS.—Not later than 60 days after the conclusion of each annual conference, the Secretary of Energy shall report to the President and the Congress recommendations arising out of the conference that may improve—*

*(A) regional coordination on energy policy and infrastructure issues, and*

*(B) Federal support for regional coordination.*

***TITLE II—ELECTRICITY***

***Subtitle A—Amendments to the Federal Power Act***

***SEC. 201. DEFINITIONS.***

*(a) DEFINITION OF ELECTRIC UTILITY.—Section 3(22) of the Federal Power Act (16 U.S.C. 796(22)) is amended to read as follows:*

*''(22) 'electric utility' means any person or Federal or State agency (including any municipality) that sells electric energy; such term includes the Tennessee Valley Authority and each Federal power marketing agency.''.*

*(b) DEFINITION OF TRANSMITTING UTILITY.—Section 3(23) of the Federal Power Act (16 U.S.C. 796(23)) is amended to read as follows:*

*''(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means an entity (including any entity described in section 201(f)) that owns or operates facilities used for the transmission of electric energy in—*

*''(A) interstate commerce; or*

*''(B) for the sale of electric energy at wholesale.''.*

***SEC. 202. ELECTRIC UTILITY MERGERS.***

*Section 203(a) of the Federal Power Act (16 U.S.C. 824b) is amended to read as follows:*

*''(a)(1) No public utility shall, without first having secured an order of the Commission authorizing it to do so—*

*''(A) sell, lease, or otherwise dispose of the whole of its facilities subject to the jurisdiction of the Commission, or any part thereof of a value in excess of $10,000,000,*

*''(B) merge or consolidate, directly or indirectly, such facilities or any part thereof with the facilities of any other person, by any means whatsoever,*

*''(C) purchase, acquire, or take any security of any other public utility, or*

*''(D) purchase, lease, or otherwise acquire existing facilities for the generation of electric energy unless such facilities will be used exclusively for the sale of electric energy at retail.*

*''(2) No holding company in a holding company system that includes a transmitting utility or an electric utility company shall purchase, acquire, or take any security of, or, by any means whatsoever, directly or indirectly, merge or consolidate with a transmitting utility, an electric utility company, a gas utility company, or a holding company in a holding company system that includes a transmitting utility, an electric utility company, or a gas utility company, without first having secured an order of the Commission authorizing it to do so.*

*''(3) Upon application for such approval the Commission shall give reasonable notice in writing to the Governor and State commission of each of the States in which the physical property affected, or any part thereof, is situated, and to such other persons as it may deem advisable.*

*''(4) After notice and opportunity for hearing, the Commission shall approve the proposed disposition, consolidation, acquisition, or control, if it finds that the proposed transaction—*

*''(A) will be consistent with the public interest;*

*''(B) will not adversely affect the interests of consumers of electric energy of any public utility that is a party to the transaction or is an associate company of any party to the transaction;*

*''(C) will not impair the ability of the Commission or any State commission having jurisdiction over any public utility that is a party to the transaction or an associate company of any party to the transaction to protect the interests of consumers or the public; and*

*''(D) will not lead to cross-subsidization of associate companies or encumber any utility assets for the benefit of an associate company.*

*''(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), and shall require the Commission to grant or deny an application for approval of a transaction of such type within 90 days after the conclusion of the hearing or opportunity to comment under paragraph (4). If the Commission does not act within 90 days, such application shall be deemed granted unless the Commission finds that further consideration is required to determine whether the proposed transaction meets the standards of paragraph (4) and issues one or more orders tolling the time for acting on the application for an additional 90 days.*

*''(6) For purposes of this subsection, the terms 'associate company', 'electric utility company', 'gas utility company', 'holding company', and 'holding company system' have the meaning given those terms in the Public Utility Holding Company Act of 2002.''.*

***SEC. 203. MARKET-BASED RATES.***

*(a) APPROVAL OF MARKET-BASED RATES.—Section 205 of the Federal Power Act (16 U.S.C. 824d) is amended by adding at the end the following:*

*''(h) The Commission may determine whether a market-based rate for the sale of electric energy subject to the jurisdiction of the Commission is just and reasonable and not unduly discriminatory or preferential. In making such determination, the Commission shall consider such factors as the Commission may deem to be appropriate and in the public interest, including to the extent the Commission considers relevant to the wholesale power market—*

*''(1) market power;*

*''(2) the nature of the market and its response mechanisms; and*

*''(3) reserve margins.''.*

*(b) REVOCATION OF MARKET-BASED RATES.—Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended by adding at the end the following:*

*''(f) Whenever the Commission, after a hearing had upon its own motion or upon complaint, finds that a rate charged by a public utility authorized to charge a market-based rate under section 205 is unjust, unreasonable, unduly discriminatory or preferential, the Commission shall determine the just and reasonable rate and fix the same by order.''.*

***SEC. 204. REFUND EFFECTIVE DATE.***

*Section 206(b) of the Federal Power Act (16 U.S.C. 824e(b)) is amended by—*

*(1) striking ''the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period'' in the second sentence and inserting ''the date of the filing of such complaint nor later than 5 months after the filing of such complaint'';*

*(2) striking ''60 days after'' in the third sentence and inserting ''of''; and*

*(3) striking ''expiration of such 60-day period'' in the third sentence and inserting ''publication date''.*

**SEC. 205. OPEN ACCESS TRANSMISSION BY CERTAIN UTILITIES.**

*Part II of the Federal Power Act is further amended by inserting after section 211 the following:*

*''OPEN ACCESS BY UNREGULATED TRANSMITTING UTILITIES*

*''SEC. 211A. (a) Subject to section 212(h), the Commission may, by rule or order, require an unregulated transmitting utility to provide transmission services—*

*''(1) at rates that are comparable to those that the unregulated transmitting utility charges itself, and*

*''(2) on terms and conditions (not relating to rates) that are comparable to those under Commission rules that require public utilities to offer open access transmission services and that are not unduly discriminatory or preferential.*

*''(b) The Commission shall exempt from any rule or order under this subsection any unregulated transmitting utility that—*

*''(1) sells no 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 thereof); or*

*''(3) meets other criteria the Commission determines to be in the public interest.*

*''(c) 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.*

*''(d) In exercising its authority under paragraph (1), the Commission may remand transmission rates to an unregulated transmitting utility for review and revision where necessary to meet the requirements of subsection (a).*

*''(e) The provision of transmission services under subsection (a) does not preclude a request for transmission services under section 211.*

*''(f) The Commission may not require a State or municipality to take action under this section that constitutes a private business use for purposes of section 141 of the Internal Revenue Code of 1986 (26 U.S.C. 141).*

*''(g) For purposes of this subsection, 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 either an entity described in section 201(f) or a rural electric cooperative.''.*

**SEC. 206. ELECTRIC RELIABILITY STANDARDS.**

*Part II of the Federal Power Act (16 U.S.C 824 et seq.) is amended by inserting the following after section 215 as added by this Act:*

**"SEC. 216. ELECTRIC RELIABILITY.**

*''(a) DEFINITIONS.—For purposes of this section—*

*''(1) 'bulk-power system' means the network of interconnected transmission facilities and generating facilities;*

*''(2) 'electric reliability organization' means a self-regulating organization certified by the Commission under subsection (c) whose purpose is to promote the reliability of the bulk-power system; and*

*''(3) 'reliability standard' means a requirement to provide for reliable operation of the bulk-power system approved by the Commission under this section.*

*''(b) JURISIDICTION AND APPLICABILITY.—The Commission shall have jurisdiction, within the United States, over an electric reliability organization, any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.*

*''(c) CERTIFICATION.—(1) 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.*

*''(2) Following the issuance of a Commission rule under paragraph (1), any person may submit an application to the Commission for certification as an electric reliability organization. The Commission may certify an applicant if the Commission determines that the applicant—*

*''(A) has the ability to develop, and enforce reliability standards that provide for an adequate level of reliability of the bulk-power system;*

*''(B) has established rules that—*

*''(i) assure its independence of the users and owners and operators of the bulk-power system; while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any committee or subordinate organizational structure;*

*''(ii) allocate equitably 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 imposition of penalties (including limitations on activities, functions, or operations, or other appropriate sanctions); and*

*''(iv) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties.*

*''(3) If the Commission receives two or more timely applications that satisfy the requirements of this subsection, the Commission shall approve only the application it concludes will best implement the provisions of this section.*

*''(d) RELIABILITY STANDARDS.—(1) An electric reliability organization shall file a proposed reliability standard or modification to a reliability standard with the Commission.*

*''(2) The Commission may approve a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the electric reliability organization with respect to the content of a proposed standard or modification to a reliability standard, but shall not defer with respect to its effect on competition.*

*''(3) The electric reliability organization and the Commission shall rebuttably presume that a proposal from a regional entity organized on an interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.*

*''(4) The Commission shall remand to the electric reliability organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.*

*''(5) The Commission, upon its own motion or upon complaint, may order an electric reliability organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.*

*''(e) ENFORCEMENT.—(1) An electric reliability organization may impose a penalty on a user or owner or operator of the bulk-power system if the electric reliability organization, after notice and an opportunity for a hearing—*

*''(A) finds that the user or owner or operator of the bulk-power system has violated a reliability standard approved by the Commission under subsection (d); and*

*''(B) files notice with the Commission, which shall affirm, set aside or modify the action.*

*''(2) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system, if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has violated or threatens to violate a reliability standard.*

*''(3) The Commission shall establish regulations authorizing the electric reliability organization to enter into an agreement to delegate authority to a regional entity for the purpose of proposing and enforcing reliability standards (including related activities) if the regional entity satisfies the provisions of subsection (c)(2) (A) and (B) and the agreement promotes effective and efficient administration of bulk-power system reliability, and may modify such delegation. The electric reliability organization and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the electric reliability organization's authority to enforce reliability standards directly to a regional entity consistent with the requirements of this paragraph.*

*''(4) The Commission may take such action as is necessary or appropriate against the electric reliability organization or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the electric reliability organization or a regional entity.*

*''(f) CHANGES IN ELECTRICITY RELIALBILITY ORGANIZATION RULES.—An electric reliability organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the electric reliability organization. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c)(2).*

*''(g) COORDINATION WITH CANADA AND MEXICO.—(1) The electric reliability organization shall take all appropriate steps to gain recognition in Canada and Mexico.*

*''(2) The President shall use his best efforts to enter into international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the electric reliability organization in the United States and Canada or Mexico.*

*''(h) RELIABILITY REPORTS.—The electric reliability organization shall conduct periodic assessments of the reliability and adequacy of the interconnected bulk-power system in North America.*

*''(i) SAVINGS PROVISIONS.—(1) The electric reliability organization shall have authority to develop and enforce compliance with standards for the reliable operation of only the bulk-power system.*

*''(2) This section does not provide the electric reliability organization or the Commission with the authority to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.*

*''(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard.*

*''(4) Within 90 days of the application of the electric reliability organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into*

*consideration any recommendation of the electric reliability organization.*

*''(5) The Commission, after consultation with the electric reliability organization, may stay the effectiveness of any State action, pending the Commission's issuance of a final order.*

*''(j) APPLICATION OF ANTITRUST LAWS.—*

*''(1) IN GENERAL.—To the extent undertaken to develop, implement, or enforce a reliability standard, each of the following activities shall not, in any action under the antitrust laws, be deemed illegal per se—*

*''(A) activities undertaken by an electric reliability organization under this section, and*

*''(B) activities of a user or owner or operator of the bulk-power system undertaken in good faith under the rules of an electric reliability organization.*

*''(2) RULE OF REASON.—In any action under the antitrust laws, an activity described in paragraph (1) shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition and reliability.*

*''(3) DEFINITION.—For purposes of this subsection, 'antitrust laws' has the meaning given the term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that it includes section 5 of the Federal Trade Commission Act (15 U. S.C. 45) to the extent that section 5 applies to unfair methods of competition.*

*''(k) REGIONAL ADVISORY BODIES.—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the electric reliability organization, a regional reliability entity, or the Commission regarding the governance of an existing or proposed regional reliability entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an interconnection-wide basis.*

*''(l) APPLICATION TO ALASKA AND HAWAII.—The provisions of this section do not apply to Alaska or Hawaii.''.*

***SEC. 207. MARKET TRANSPARENCY RULES.***

*Part II of the Federal Power Act is further amended by adding at the end the following:*

***''SEC. 216. MARKET TRANSPARENCY RULES.***

*''(a) COMMISSION RULES.—Not later than 180 days after the date of enactment of this section, the Commission shall issue rules establishing an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services to the Commission, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public on a timely basis.*

*''(b) INFORMATION REQUIRED.—The Commission shall require—*

*''(1) each regional transmission organization to provide statistical information about the available capacity and capacity constraints of transmission facilities operated by the organization; and*

*''(2) each broker, exchange, or other market-making entity that matches offers to sell and offers to buy wholesale electric energy in interstate commerce to provide statistical information about the amount and sale price of sales of electric energy at wholesale in interstate commerce it transacts.*

*''(c) TIMELY BASIS.—The Commission shall require the information required under subsection (b) to be posted on the Internet as soon as practicable and updated as frequently as practicable.*

*''(d) PROTECTION OF SENSITIVE INFORMATION.—The Commission shall exempt from disclosure commercial or financial information that the Commission, by rule or order, determines to be privileged, confidential, or otherwise sensitive.''.*

***SEC. 208. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.***

*Part II of the Federal Power Act is further amended by adding at the end the following:*

***''SEC. 217. ACCESS TO TRANSMISSION BY INTERMITTENT GENERATORS.***

*''(a) FAIR TREATMENT OF INTERMITTENT GENERATORS.—The Commission shall ensure that all transmitting utilities provide transmission service to intermittent generators in a manner that does not unduly prejudice or disadvantage such generators for characteristics that are—*

*''(1) inherent to intermittent energy resources; and*

*''(2) are beyond the control of such generators.*

*''(b) POLICIES.—The Commission shall ensure that the requirement in subsection (a) is met by adopting such policies as it deems appropriate which shall include the following:*

*''(1) Subject to the sole exception set forth in paragraph (2), the Commission shall ensure that the rates transmitting utilities charge intermittent generator customers for transmission services do not unduly prejudice or disadvantage intermittent generator customers for scheduling deviations.*

*''(2) The Commission may exempt a transmitting utility from the requirement set forth in paragraph (1) if the transmitting utility demonstrates that scheduling deviations by its intermittent generator customers are likely to have an adverse impact on the reliability of the transmitting utility's system.*

*''(3) The Commission shall ensure that to the extent any transmission charges recovering the transmitting utility's embedded costs are assessed to such intermittent generators, they are assessed to such generators on the basis of kilowatt-hours generated or some other method to ensure that they are fully recovered by the transmitting utility.*

*''(4) The Commission shall require transmitting utilities to offer to intermittent generators, and may require transmitting utilities to offer to all transmission customers, access to nonfirm transmission service.*

*''(c) DEFINITIONS.—As used in this section:*

*''(1) The term 'intermittent generator' means a facility that generates electricity using wind or solar energy and no other energy source.*

*''(2) The term 'nonfirm transmission service' means transmission service provided on an 'as available' basis.*

*''(3) The term 'scheduling deviation' means delivery of more or less energy than has previously been forecast in a schedule submitted by an intermittent generator to a control area operator or transmitting utility.''.*

***SEC. 209. ENFORCEMENT.***

*(a) COMPLAINTS.—Section 306 of the Federal Power Act (16 U.S.C. 825e) is amended by—*

*(1) inserting ''electric utility,'' after ''Any person,''; and*

*(2) inserting ''transmitting utility,'' after ''licensee'' each place it appears.*

*(b) INVESTIGATIONS.—Section 307(a) of the Federal Power Act (16 U.S.C. 825f(a)) is amended by inserting ''or transmitting utility'' after ''any person'' in the first sentence.*

*(c) REVIEW OF COMMISSION ORDERS.—Section 313(a) of the Federal Power Act (16 U.S.C. 8251) is amended by inserting ''electric utility,'' after ''Any person,'' in the first sentence.*

*(d) CRIMINAL PENALTIES.—Section 316(c) of the Federal Power Act (16 U.S.C. 825o(c)) is repealed.*

*(e) CIVIL PENALTIES.—Section 316A of the Federal Power Act (16 U.S.C. 825o–1) is amended by striking ''section 211, 212, 213, or 214'' each place it appears and inserting ''Part II''.*

***SEC. 210. ELECTRIC POWER TRANSMISSION SYSTEMS.***

*The Federal Government should be attentive to electric power transmission issues, including issues that can be addressed through policies that facilitate investment in, the enhancement of, and the efficiency of electric power transmission systems.*

***Subtitle B—Amendments to the Public Utility Holding Company Act***

***SEC. 221. SHORT TITLE.***

*This subtitle may be cited as the ''Public Utility Holding Company Act of 2002''.*

***SEC. 222. DEFINITIONS.***

*For purposes of this subtitle:*

*(1) The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.*

*(2) The term ''associate company'' of a company means any company in the same holding company system with such company.*

*(3) The term ''Commission'' means the Federal Energy Regulatory Commission.*

*(4) The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.*

*(5) The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.*

*(6) The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 32 and 33, respectively, of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79z–5a, 79z–5b), as those sections existed on the day before the effective date of this subtitle.*

*(7) The term ''gas utility company'' means any company that owns or operates facilities used for distribution at retail (other than the distribution only in enclosed portable containers or distribution to tenants or employees of the company operating such facilities for their own use and not for resale) of natural or manufactured gas for heat, light, or power.*

*(8) The term ''holding company'' means—*

*(A) any company that directly or indirectly owns, controls, or holds, with power to vote, 10 percent or more of the outstanding voting securities of a public utility company or of a holding company of any public utility company; and*

*(B) any person, determined by the Commission, after notice and opportunity for hearing, to exercise directly or indirectly (either alone or pursuant to an arrangement or understanding with one or more persons) such a controlling influence over the management or policies of any public utility company or holding company as to make it necessary or appropriate for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon holding companies.*

*(9) The term ''holding company system'' means a holding company, together with its subsidiary companies.*

*(10) The term ''jurisdictional rates'' means rates established by the Commission for the transmission of electric energy in interstate commerce, the sale of electric energy at wholesale in interstate commerce, the transportation of natural gas in interstate commerce, and the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use.*

*(11) The term ''natural gas company'' means a person engaged in the transportation of natural gas in interstate commerce or the sale of such gas in interstate commerce for resale.*

*(12) The term ''person'' means an individual or company.*

*(13) The term ''public utility'' means any person who owns or operates facilities used for transmission of electric energy in interstate commerce or sales of electric energy at wholesale in interstate commerce.*

*(14) The term ''public utility company'' means an electric utility company or a gas utility company.*

*(15) The term ''State commission'' means any commission, board, agency, or officer, by whatever name designated, of a State, municipality, or other political subdivision of a State that, under the laws of such State, has jurisdiction to regulate public utility companies.*

*(16) The term ''subsidiary company'' of a holding company means—*

*(A) any company, 10 percent or more of the outstanding voting securities of which are directly or indirectly owned, controlled, or held with power to vote, by such holding company; and*

*(B) any person, the management or policies of which the Commission, after notice and opportunity for hearing, determines to be subject to a controlling influence, directly or indirectly, by such holding company (either alone or pursuant to an arrangement or understanding with one or more other persons) so as to make it necessary for the rate protection of utility customers with respect to rates that such person be subject to the obligations, duties, and liabilities imposed by this subtitle upon subsidiary companies of holding companies.*

*(17) The term ''voting security'' means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a company.*

***SEC. 223. REPEAL OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.***

*The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is repealed.*

***SEC. 224. FEDERAL ACCESS TO BOOKS AND RECORDS.***

*(a) IN GENERAL.—Each holding company and each associate company thereof shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.*

*(b) AFFILIATE COMPANIES.—Each affiliate of a holding company or of any subsidiary company of a holding company shall maintain, and shall make available to the Commission, such books, accounts, memoranda, and other records with respect to any transaction with another affiliate, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company that is an associate company of such holding company and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.*

*(c) HOLDING COMPANY SYSTEMS.—The Commission may examine the books, accounts, memoranda, and other records of any company in a holding company system, or any affiliate thereof, as the Commission deems to be relevant to costs incurred by a public utility or natural gas company within such holding company system and necessary or appropriate for the protection of utility customers with respect to jurisdictional rates.*

*(d) CONFIDENTIALITY.—No member, officer, or employee of the Commission shall divulge any fact or information that may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction.*

***SEC. 225. STATE ACCESS TO BOOKS AND RECORDS.***

*(a) IN GENERAL.—Upon the written request of a State commission having jurisdiction to regulate a public utility company in a holding company system, the holding company or any associate company or affiliate thereof, other than such public utility company, wherever located, shall produce for inspection books, accounts, memoranda, and other records that—*

*(1) have been identified in reasonable detail by the State commission;*

*(2) the State commission deems are relevant to costs incurred by such public utility company; and*

*(3) are necessary for the effective discharge of the responsibilities of the State commission with respect to such proceeding.*

*(b) LIMITATION.—Subsection (a) does not apply to any person that is a holding company solely by reason of ownership of one or more qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.).*

*(c) CONFIDENTIALITY OF INFORMATION.—The production of books, accounts, memoranda, and other records under subsection (a) shall be subject to such terms and conditions as may be necessary and appropriate to safeguard against unwarranted disclosure to the public of any trade secrets or sensitive commercial information.*

*(d) EFFECT ON STATE LAW.—Nothing in this section shall preempt applicable State law concerning the provision of books, accounts, memoranda, and other records, or in any way limit the rights of any State to obtain books, accounts, memoranda, and other records under any other Federal law, contract, or otherwise.*

*(e) COURT JURISDICTION.—Any United States district court located in the State in which the State commission referred to in subsection (a) is located shall have jurisdiction to enforce compliance with this section.*

***SEC. 226. EXEMPTION AUTHORITY.***

*(a) RULEMAKING.—Not later than 90 days after the effective date of this subtitle, the Commission shall promulgate a final rule to exempt from the requirements of section 224 any person that is a holding company, solely with respect to one or more—*

*(1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);*

*(2) exempt wholesale generators; or*

*(3) foreign utility companies.*

*(b) OTHER AUTHORITY.—The Commission shall exempt a person or transaction from the requirements of section 224, if, upon application or upon the motion of the Commission—*

*(1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or*

*(2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.*

***SEC. 227. AFFILIATE TRANSACTIONS.***

*(a) COMMISSION AUTHORITY UNAFFECTED.—Nothing in this subtitle shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the promulgation of such rules and regulations as are necessary or appropriate for the protection of utility consumers.*

*(b) RECOVERY OF COSTS.—Nothing in this subtitle shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public utility company from an associate company.*

***SEC. 228. APPLICABILITY.***

*Except as otherwise specifically provided in this subtitle, no provision of this subtitle shall apply to, or be deemed to include—*

*(1) the United States;*

*(2) a State or any political subdivision of a State;*

*(3) any foreign governmental authority not operating in the United States;*

*(4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or*

*(5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), or (3) acting as such in the course of his or her official duty.*

***SEC. 229. EFFECT ON OTHER REGULATIONS.***

*Nothing in this subtitle precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.*

***SEC. 230. ENFORCEMENT.***

*The Commission shall have the same powers as set forth in sections 306 through 317 of the Federal Power Act (16 U.S.C. 825e–825p) to enforce the provisions of this subtitle.*

***SEC. 231. SAVINGS PROVISIONS.***

*(a) IN GENERAL.—Nothing in this subtitle prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on the effective date of this subtitle.*

*(b) EFFECT ON OTHER COMMISSION AUTHORITY.—Nothing in this subtitle limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) (including section 301 of that Act) or the Natural Gas Act (15 U.S.C. 717 et seq.) (including section 8 of that Act).*

***SEC. 232. IMPLEMENTATION.***

*Not later than 18 months after the date of enactment of this subtitle, the Commission shall—*

*(1) promulgate such regulations as may be necessary or appropriate to implement this subtitle (other than section 225); and*

*(2) submit to the Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this subtitle and the amendments made by this subtitle.*

***SEC. 233. TRANSFER OF RESOURCES.***

*All books and records that relate primarily to the functions transferred to the Commission under this subtitle shall be transferred from the Securities and Exchange Commission to the Commission.*

***SEC. 234. INTER-AGENCY REVIEW OF COMPETITION IN THE WHOLESALE AND RETAIL MARKETS FOR ELECTRIC ENERGY.***

*(a) TASK FORCE.—There is established an inter-agency task force, to be known as the ''Electric Energy Market Competition Task Force'' (referred to in this section as the ''task force''), which shall consist of—*

*(1) one member each from—*

*(A) the Department of Justice, to be appointed by the Attorney General of the United States;*

*(B) the Federal Energy Regulatory Commission, to be appointed by the chairman of that Commission; and*

*(C) the Federal Trade Commission, to be appointed by the chairman of that Commission; and*

*(2) two advisory members (who shall not vote), of whom—*

*(A) one shall be appointed by the Secretary of Agriculture to represent the Rural Utility Service; and*

*(B) one shall be appointed by the Chairman of the Securities and Exchange Commission to represent that Commission.*

*(b) STUDY AND REPORT.—*

*(1) STUDY.—The task force shall perform a study and analysis of the protection and promotion of competition within the wholesale and retail market for electric energy in the United States.*

*(2) REPORT.—*

*(A) FINAL REPORT.—Not later than 1 year after the effective date of this subtitle, the task force shall submit a final report of its findings under paragraph (1) to the Congress.*

*(B) PUBLIC COMMENT.—At least 60 days before submission of a final report to the Congress under subparagraph (A), the task force shall publish a draft report in the Federal Register to provide for public comment.*

*(c) FOCUS.—The study required by this section shall examine—*

*(1) the best means of protecting competition within the wholesale and retail electric market;*

*(2) activities within the wholesale and retail electric market that may allow unfair and unjustified discriminatory and deceptive practices;*

*(3) activities within the wholesale and retail electric market, including mergers and acquisitions, that deny market access or suppress competition;*

*(4) cross-subsidization that may occur between regulated and nonregulated activities; and*

*(5) the role of State public utility commissions in regulating competition in the wholesale and retail electric market.*

*(d) CONSULTATION.—In performing the study required by this section, the task force shall consult with and solicit comments from its advisory members, the States, representatives of the electric power industry, and the public.*

***SEC. 235. GAO STUDY ON IMPLEMENTATION.***

*(a) STUDY.—The Comptroller General shall conduct a study of the success of the Federal Government and the States during the 18-month period following the effective date of this subtitle in—*

*(1) the prevention of anticompetitive practices and other abuses by public utility holding companies, including cross-subsidization and other market power abuses; and*

*(2) the promotion of competition and efficient energy markets to the benefit of consumers.*

*(b) REPORT TO CONGRESS.—Not earlier than 18 months after the effective date of this subtitle or later than 24 months after that effective date, the Comptroller General shall submit a report to the Congress on the results of the study conducted under subsection (a), including probable causes of its findings and recommendations to the Congress and the States for any necessary legislative changes.*

***SEC. 236. EFFECTIVE DATE.***

*This subtitle shall take effect 18 months after the date of enactment of this subtitle.*

***SEC. 237. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated such funds as may be necessary to carry out this subtitle.*

***SEC. 238. CONFORMING AMENDMENTS TO THE FEDERAL POWER ACT.***

*(a) CONFLICT OF JURISDICTION.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is repealed.*

*(b) DEFINITIONS.—(1) Section 201(g) of the Federal Power Act (16 U.S.C. 824(g)) is amended by striking ''1935'' and inserting ''2002''.*

*(2) Section 214 of the Federal Power Act (16 U.S.C. 824m) is amended by striking ''1935'' and inserting ''2002''.*

***Subtitle C—Amendments to the Public Utility Regulatory Policies Act of 1978***

***SEC. 241. REAL-TIME PRICING AND TIME-OF-USE METERING 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) REAL-TIME PRICING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a real-time rate schedule, under which the rate charged by the electric utility varies by the hour (or smaller time interval) according to changes in the electric utility's wholesale power cost. The real-time pricing service shall enable the electric consumer to manage energy use and cost through real-time metering and communications technology.*

*''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.*

*''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.*

*''(12) TIME-OF-USE METERING.—(A) Each electric utility shall, at the request of an electric consumer, provide electric service under a time-of-use rate schedule which enables the electric consumer to manage energy use and cost through time-of-use metering and technology.*

*''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.*

*''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.*

*(b) SPECIAL RULES.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended by adding at the end the following:*

*''(i) REAL-TIME PRICING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same real-time metering and communication service as a direct retail electric consumer of the electric utility.*

*''(j) TIME-OF-USE METERING.—In a State that permits third-party marketers to sell electric energy to retail electric consumers, the electric consumer shall be entitled to receive the same time-of-use metering and communication service as a direct retail electric consumer of the electric utility.''.*

***SEC. 242. ADOPTION OF ADDITIONAL STANDARDS.***

*(a) ADOPTION OF STANDARDS.—Section 113(b) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623(b)) is amended by adding at the end the following:*

*''(6) DISTRIBUTED GENERATION.—Each electric utility shall provide distributed generation, combined heat and power, and district heating and cooling systems competitive access to the local distribution grid and competitive pricing of service, and shall use simplified standard contracts for the interconnection of generating facilities that have a power production capacity of 250 kilowatts or less.*

*''(7) DISTRIBUTION INTERCONNECTIONS.—No electric utility may refuse to interconnect a generating facility with the distribution facilities of the electric utility if the owner or operator of the generating facility complies with technical standards adopted by the State regulatory authority and agrees to pay the costs established by such State regulatory authority.*

*''(8) MINIMUM FUEL AND TECHNOLOGY DIVERSITY STANDARD.—Each electric utility shall develop a plan to minimize dependence on one fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.*

*''(9) FOSSIL FUEL EFFICIENCY.—Each electric utility shall develop and implement a ten-year plan to increase the efficiency of its fossil fuel generation and shall monitor and report to its State regulatory authority excessive greenhouse gas emissions resulting from the inefficient operation of its fossil fuel generating plants.''.*

*(b) TIME FOR ADOPTING STANDARDS.—Section 113 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2623) is further amended by adding at the end the following:*

*''(d) SPECIAL RULE.—For purposes of implementing paragraphs (6), (7), (8), and (9) of subsection (b), any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this subsection.''.*

***SEC. 243. TECHNICAL ASSISTANCE.***

*Section 132(c) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2642(c)) is amended to read as follows:*

*''(c) TECHNICAL ASSISTANCE FOR CERTAIN RESPONSIBILITIES.—The Secretary may provide such technical assistance as he determines appropriate to assist State regulatory authorities and electric utilities in carrying out their responsibilities under section 111(d)(11) and paragraphs (6), (7), (8), and (9) of section 113(b).''.*

***SEC. 244. COGENERATION AND SMALL POWER PRODUCTION PURCHASE AND SALE REQUIREMENTS.***

*(a) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—Section 210 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 824a–3) is amended by adding at the end the following:*

*''(m) TERMINATION OF MANDATORY PURCHASE AND SALE REQUIREMENTS.—*

*''(1) 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 access to independently administered, auction-based day ahead and real time wholesale markets for the sale of electric energy.*

*''(2) 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 competing retail electric suppliers are able to provide electric energy to the qualifying cogeneration facility or qualifying small power production facility.*

*''(3) 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 on the date of enactment of this subsection, to purchase electric energy or capacity from or to sell electric energy or capacity to a facility under this Act (including the right to recover costs of purchasing electric energy or capacity).*

*''(4) RECOVERY OF COSTS.—*

*''(A) REGULATION.—To ensure recovery by an electric utility that purchases electric energy or capacity from a qualifying facility pursuant to any legally enforceable obligation entered into or imposed under this section before the date of enactment of this subsection, of all prudently incurred costs associated with the purchases, the Commission shall issue and enforce such regulations as may be required to ensure that the electric utility shall collect the prudently incurred costs associated with such purchases.*

*''(B) ENFORCEMENT.—A regulation under subparagraph (A) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under the Federal Power Act (16 U.S.C. 791a et seq.).''.*

*(b) ELIMINATION OF OWNERSHIP LIMITATIONS.—*

*(1) Section 3(17)(C) of the Federal Power Act (16 U.S.C. 796(17)(C)) is amended to read as follows:*

*''(C) 'qualifying small power production facility' means a small power production facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.*

*(2) Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)) is amended to read as follows:*

*''(B) 'qualifying cogeneration facility' means a cogeneration facility that the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe.''.*

***SEC. 245. NET METERING.***

*(a) ADOPTION OF STANDARD.—Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)) is further amended by adding at the end the following:*

*''(13) NET METERING.—(A) Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves.*

*''(B) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.*

*''(C) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standard set out in subparagraph (A) not later than 1 year after the date of enactment of this paragraph.''.*

*(b) SPECIAL RULES FOR NET METERING.—Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is further amended by adding at the end the following:*

*''(k) NET METERING.—*

*''(1) RATES AND CHARGES.—An electric utility—*

*''(A) shall charge the owner or operator of an on-site generating facility rates and charges that are identical to those that would be charged other electric consumers of the electric utility in the same rate class; and*

*''(B) shall not charge the owner or operator of an on-site generating facility any additional standby, capacity, interconnection, or other rate or charge.*

*''(2) MEASUREMENT.—An electric utility that sells electric energy to the owner or operator of an on-site generating facility shall measure the quantity of electric energy produced by the on-site facility and the quantity of electric energy consumed by the owner or operator of an on-site generating facility during a billing period in accordance with normal metering practices.*

*''(3) ELECTRIC ENERGY SUPPLIED EXCEEDING ELECTRIC ENERGY GENERATED.—If the quantity of electric energy sold by the electric utility to an on-site generating facility exceeds the quantity of electric energy supplied by the on-site generating facility to the electric utility during the billing period, the electric utility may bill the owner or operator for the net quantity of electric energy sold, in accordance with normal metering practices.*

*''(4) ELECTRIC ENERGY GENERATED EXCEEDING ELECTRIC ENERGY SUPPLIED.—If the quantity of electric energy supplied by the on-site generating facility to the electric utility exceeds the quantity of electric energy sold by the electric utility to the on-site generating facility during the billing period—*

*''(A) the electric utility may bill the owner or operator of the on-site generating facility for the appropriate charges for the billing period in accordance with paragraph (2); and*

*''(B) the owner or operator of the on-site generating facility shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hour credit appearing on the bill for the following billing period.*

*''(5) SAFETY AND PERFORMANCE STANDARDS.—An eligible on-site generating facility and net metering system used by an electric consumer shall meet all applicable safety, performance, reliability, and interconnection standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.*

*''(6) ADDITIONAL CONTROL AND TESTING REQUIREMENTS.—The Commission, after consultation with State regulatory authorities and nonregulated electric utilities and after notice and opportunity for comment, may adopt, by rule, additional control and testing requirements for on-site generating facilities and net metering systems that the Commission determines are necessary to protect public safety and system reliability.*

*''(7) DEFINITIONS.—For purposes of this subsection:*

*''(A) The term 'eligible on-site generating facility' means—*

*''(i) a facility on the site of a residential electric consumer with a maximum generating capacity of 10 kilowatts or less that is fueled by solar energy, wind energy, or fuel cells; or*

*''(ii) a facility on the site of a commercial electric consumer with a maximum generating capacity of 500 kilowatts or less that is fueled solely by a renewable energy resource, landfill gas, or a high efficiency system.*

*''(B) The term 'renewable energy resource' means solar, wind, biomass, or geothermal energy.*

*''(C) The term 'high efficiency system' means fuel cells or combined heat and power.*

*''(D) The term 'net metering service' means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.''.*

***Subtitle D—Consumer Protections***

***SEC. 251. INFORMATION DISCLOSURE.***

*(a) OFFERS AND SOLICITATIONS.—The Federal Trade Commission shall issue rules requiring each electric utility that makes an offer to sell electric energy, or solicits electric consumers to purchase electric energy to provide the electric consumer a statement containing the following information—*

*(1) the nature of the service being offered, including information about interruptibility of service;*

*(2) the price of the electric energy, including a description of any variable charges;*

*(3) a description of all other charges associated with the service being offered, including access charges, exit charges, back-up service charges, stranded cost recovery charges, and customer service charges; and*

*(4) information the Federal Trade Commission determines is technologically and economically feasible to provide, is of assistance to electric consumers in making purchasing decisions, and concerns—*

*(A) the product or its price;*

*(B) the share of electric energy that is generated by each fuel type; and*

*(C) the environmental emissions produced in generating the electric energy.*

*(b) PERIODIC BILLINGS.—The Federal Trade Commission shall issue rules requiring any electric utility that sells electric energy to transmit to each of its electric consumers, in addition to the information transmitted pursuant to section 115(f) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625(f)), a clear and concise statement containing the information described in subsection (a)(4) for each billing period (unless such information is not reasonably ascertainable by the electric utility).*

***SEC. 252. CONSUMER PRIVACY.***

*(a) PROHIBITION.—The Federal Trade Commission shall issue rules prohibiting any electric utility that obtains consumer information in connection with the sale or delivery of electric energy to an electric consumer from using, disclosing, or permitting access to such information unless the electric consumer to whom such information relates provides prior written approval.*

*(b) PERMITTED USE.—The rules issued under this section shall not prohibit any electric utility from using, disclosing, or permitting access to consumer information referred to in subsection (a) for any of the following purposes—*

*(1) to facilitate an electric consumer's change in selection of an electric utility under procedures approved by the State or State regulatory authority;*

*(2) to initiate, render, bill, or collect for the sale or delivery of electric energy to electric consumers or for related services;*

*(3) to protect the rights or property of the person obtaining such information;*

*(4) to protect retail electric consumers from fraud, abuse, and unlawful subscription in the sale or delivery of electric energy to such consumers;*

*(5) for law enforcement purposes; or*

*(6) for purposes of compliance with any Federal, State, or local law or regulation authorizing disclosure of information to a Federal, State, or local agency.*

*(c) AGGREGATE CONSUMER INFORMATION.—The rules issued under this subsection may permit a person to use, disclose, and permit access to aggregate consumer information and may require an electric utility to make such information available to other electric utilities upon request and payment of a reasonable fee.*

*(d) DEFINITIONS.—As used in this section:*

*(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of retail electric consumers, from which individual consumer identities and characteristics have been removed.*

*(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to any retail electric consumer.*

***SEC. 253. OFFICE OF CONSUMER ADVOCACY.***

*(a) DEFINITIONS.—In this section:*

*(1) COMMISSION.—The term ''Commission'' means the Federal Energy Regulatory Commission.*

*(2) 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.*

*(3) 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)).*

*(4) OFFICE.—The term ''Office'' means the Office of Consumer Advocacy established by subsection (b)(1).*

*(5) 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)).*

*(6) 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 of Justice the Office of Consumer Advocacy.*

*(2) DIRECTOR.—The Office shall be headed by a Director to be appointed by the President, by and with the advice and consent of the Senate.*

*(3) 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 judicial proceedings in the courts of the United States;*

*(C) at hearings or proceedings of other Federal regulatory agencies and commissions.*

***SEC. 254. UNFAIR TRADE PRACTICES.***

*(a) SLAMMING.—The Federal Trade Commission shall issue rules prohibiting the change of*

*selection of an electric utility except with the informed consent of the electric consumer.*

*(b) CRAMMING.—The Federal Trade Commission shall issue rules prohibiting the sale of goods and services to an electric consumer unless expressly authorized by law or the electric consumer.*

***SEC. 255. APPLICABLE PROCEDURES.***

*The Federal Trade Commission shall proceed in accordance with section 553 of title 5, United States Code, when prescribing a rule required by this subtitle.*

***SEC. 256. FEDERAL TRADE COMMISSION ENFORCEMENT.***

*Violation of a rule issued under this subtitle shall be treated as a violation of a rule under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) respecting unfair or deceptive acts or practices. All functions and powers of the Federal Trade Commission under such Act are available to the Federal Trade Commission to enforce compliance with this subtitle notwithstanding any jurisdictional limits in such Act.*

***SEC. 257. STATE AUTHORITY.***

*Nothing in this subtitle shall be construed to preclude a State or State regulatory authority from prescribing and enforcing laws, rules, or procedures regarding the practices which are the subject of this section.*

***SEC. 258. APPLICATION OF SUBTITLE.***

*The provisions of this subtitle apply to each electric utility if the total sales of electric energy by such utility for purposes other than resale exceed 500 million kilowatt-hours per calendar year. The provisions of this subtitle do not apply to the operations of an electric utility to the extent that such operations relate to sales of electric energy for purposes of resale.*

***SEC. 259. DEFINITIONS.***

*As used in this subtitle:*

*(1) The term ''aggregate consumer information'' means collective data that relates to a group or category of electric consumers, from which individual consumer identities and identifying characteristics have been removed.*

*(2) The term ''consumer information'' means information that relates to the quantity, technical configuration, type, destination, or amount of use of electric energy delivered to an electric consumer.*

*(3) The terms ''electric consumer'', ''electric utility'', and ''State regulatory authority'' have the meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602).*

***Subtitle E—Renewable Energy and Rural Construction Grants***

***SEC. 261. RENEWABLE ENERGY PRODUCTION INCENTIVE.***

*(a) INCENTIVE PAYMENTS.—Section 1212(a) of the Energy Policy Act of 1992 (42 U.S.C. 13317(a)) is amended by striking ''and which satisfies'' and all that follows through ''Secretary shall establish.'' and inserting the following: ''. The Secretary shall establish other procedures necessary for efficient administration of the program. The Secretary shall not establish any criteria or procedures that have the effect of assigning to proposals a higher or lower priority for eligibility or allocation of appropriated funds on the basis of the energy source proposed.''.*

*(b) QUALIFIED RENEWABLE ENERGY FACILITY.—Section 1212(b) of the Energy Policy Act of 1992 (42 U.S.C. 13317(b)) is amended—*

*(1) by striking ''a State or any political'' and all that follows through ''nonprofit electrical cooperative'' and inserting the following: ''a nonprofit electrical cooperative, a public utility described in section 115 of such Code, a State, Commonwealth, territory, or possession of the United States or the District of Columbia, or a political subdivision thereof, or an Indian tribal government or subdivision thereof,''; and*

*(2) by inserting ''landfill gas, incremental hydropower, ocean'' after ''wind, biomass,''.*

*(c) ELIGIBILITY WINDOW.—Section 1212(c) of the Energy Policy Act of 1992 (42 U.S.C. 13317(c)) is amended by striking ''during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section'' and inserting ''before October 1, 2013''.*

*(d) PAYMENT PERIOD.—Section 1212(d) of the Energy Policy Act of 1992 (42 U.S.C. 13317(d)) is amended by inserting ''or in which the Secretary finds that all necessary Federal and State authorizations have been obtained to begin construction of the facility'' after ''eligible for such payments''.*

*(e) AMOUNT OF PAYMENT.—Section 1212(e)(1) of the Energy Policy Act of 1992 (42 U.S.C. 13317(e)(1)) is amended by inserting ''landfill gas, incremental hydropower, ocean'' after ''wind, biomass,''.*

*(f) SUNSET.—Section 1212(f) of the Energy Policy Act of 1992 (42 U.S.C. 13317(f)) is amended by striking ''the expiration of'' and all that follows through ''of this section'' and inserting ''September 30, 2023''.*

*(g) INCREMENTAL HYDROPOWER; AUTHORIZATION OF APPROPRIATIONS.—Section 1212 of the Energy Policy Act of 1992 (42 U.S.C. 13317) is further amended by striking subsection (g) and inserting the following:*

*''(g) INCREMENTAL HYDROPOWER.—*

*''(1) PROGRAMS.—Subject to subsection (h)(2), if an incremental hydropower program meets the requirements of this section, as determined by the Secretary, the incremental hydropower program shall be eligible to receive incentive payments under this section.*

*''(2) DEFINITION OF INCREMENTAL HYDROPOWER.—In this subsection, the term 'incremental hydropower' means additional generating capacity achieved from increased efficiency or additions of new capacity at a hydroelectric facility in existence on the date of enactment of this paragraph.*

*''(h) AUTHORIZATION OF APPROPRIATIONS.—*

*''(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years 2003 through 2023.*

*''(2) LIMITATION ON FUNDS USED FOR INCREMENTAL HYDROPOWER PROGRAMS.—Not more than 30 percent of the amounts made available under paragraph (1) shall be used to carry out programs described in subsection (g)(2).*

*''(3) AVAILABILITY OF FUNDS.—Funds made available under paragraph (1) shall remain available until expended.''.*

***SEC. 262. ASSESSMENT OF RENEWABLE ENERGY RESOURCES.***

*(a) RESOURCE ASSESSMENT.—Not later than 3 months after the date of enactment of this title, and each year thereafter, the Secretary of Energy shall review the available assessments of renewable energy resources available within the United States, including solar, wind, biomass, ocean, geothermal, and hydroelectric energy resources, and undertake new assessments as necessary, taking into account changes in market conditions, available technologies and other relevant factors.*

*(b) CONTENTS OF REPORTS.—Not later than 1 year after the date of enactment of this title, and each year thereafter, the Secretary shall publish a report based on the assessment under subsection (a). The report shall contain—*

*(1) a detailed inventory describing the available amount and characteristics of the renewable energy resources, and*

*(2) such other information as the Secretary of Energy believes would be useful in developing such renewable energy resources, including descriptions of surrounding terrain, population and load centers, nearby energy infrastructure, location of energy and water resources, and available estimates of the costs needed to develop each resource, together with an identification of any barriers to providing adequate transmission for remote sources of renewable energy resources to current and emerging markets, recommendations for removing or addressing such barriers, and ways to provide access to the grid that do not unfairly disadvantage renewable or other energy producers.*

***SEC. 263. FEDERAL PURCHASE REQUIREMENT.***

*(a) REQUIREMENT.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, of the total amount of electric energy the Federal Government consumes during any fiscal year—*

*(1) not less than 3 percent in fiscal years 2003 through 2004,*

*(2) not less than 5 percent in fiscal years 2005 through 2009, and*

*(3) not less than 7.5 percent in fiscal year 2010 and each fiscal year thereafter,*

*shall be renewable energy. The President shall encourage the use of innovative purchasing practices by Federal agencies.*

*(b) DEFINITION.—For purposes of this section, the term ''renewable energy'' means electric energy generated from solar, wind, biomass, geothermal, fuel cells, municipal solid waste, or additional hydroelectric generation capacity achieved from increased efficiency or additions of new capacity.*

*(c) TRIBAL POWER GENERATION.—The President shall seek to ensure that, to the extent economically feasible and technically practicable, not less than one-tenth of the amount specified in subsection (a) shall be renewable energy that is generated by an Indian tribe or by a corporation, partnership, or business association which is wholly or majority owned, directly or indirectly, by an Indian tribe. For purposes of this subsection, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.*

*(d) BIENNIAL REPORT.—In 2004 and every 2 years thereafter, the Secretary of Energy shall report to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress of the Federal Government in meeting the goals established by this section.*

***SEC. 264. RENEWABLE PORTFOLIO STANDARD.***

*Title VI of the Public Utility Regulatory Policies Act of 1978 is amended by adding at the end the following:*

***''SEC. 606. FEDERAL RENEWABLE PORTFOLIO STANDARD.***

*''(a) MINIMUM RENEWABLE GENERATION REQUIREMENT.—For each calendar year beginning in calendar year 2005, each retail electric supplier shall submit to the Secretary, not later than April 1 of the following calendar year, renewable energy credits in an amount equal to the required annual percentage specified in subsection (b).*

*''(b) REQUIRED ANNUAL PERCENTAGE.—(1) For calendar years 2005 through 2020, the required annual percentage of the retail electric supplier's base amount that shall be generated from renewable energy resources shall be the percentage specified in the following table:*

| ***''Calendar Years*** | ***Required annual percentage*** |
|---|---|
| *2005 through 2006* | *1.0* |
| *2007 through 2008* | *2.2* |
| *2009 through 2010* | *3.4* |
| *2011 through 2012* | *4.6* |
| *2013 through 2014* | *5.8* |
| *2015 through 2016* | *7.0* |
| *2017 through 2018* | *8.5* |
| *2019 through 2020* | *10.0.* |

*''(2) Not later than January 1, 2015, the Secretary may, by rule, establish required annual percentages in amounts not less than 10.0 for calendar years 2020 through 2030.*

*''(c) SUBMISSION OF CREDITS.—(1) A retail electric supplier may satisfy the requirements of*

*subsection (a) through the submission of renewable energy credits—*

*''(A) issued to the retail electric supplier under subsection (d);*

*''(B) obtained by purchase or exchange under subsection (e); or*

*''(C) borrowed under subsection (f).*

*''(2) A credit may be counted toward compliance with subsection (a) only once.*

*''(d) ISSUANCE OF CREDITS.—(1) The Secretary shall establish, not later than 1 year after the date of enactment of this section, a program to issue, monitor the sale or exchange of, and track renewable energy credits.*

*''(2) Under the program, an entity that generates electric energy through the use of a renewable energy resource may apply to the Secretary for the issuance of renewable energy credits. The application shall indicate—*

*''(A) the type of renewable energy resource used to produce the electricity,*

*''(B) the location where the electric energy was produced, and*

*''(C) any other information the Secretary determines appropriate.*

*''(3)(A) Except as provided in paragraphs (B), (C), and (D), the Secretary shall issue to an entity one renewable energy credit for each kilowatt-hour of electric energy the entity generates from the date of enactment of this section and in each subsequent calendar year through the use of a renewable energy resource at an eligible facility.*

*''(B) For incremental hydropower the credits shall be calculated based on the expected increase in average annual generation resulting from the efficiency improvements or capacity additions. The number of credits shall be calculated using the same water flow information used to determine a historic average annual generation baseline for the hydroelectric facility and certified by the Secretary or the Federal Energy Regulatory Commission. The calculation of the credits for incremental hydropower shall not be based on any operational changes at the hydroelectric facility not directly associated with the efficiency improvements or capacity additions.*

*''(C) The Secretary shall issue two renewable energy credits for each kilowatt-hour of electric energy generated and supplied to the grid in that calendar year through the use of a renewable energy resource at an eligible facility located on Indian land. For purposes of this paragraph, renewable energy generated by biomass cofired with other fuels is eligible for two credits only if the biomass was grown on the land eligible under this paragraph.*

*''(D) For renewable energy resources produced from a generation offset, the Secretary shall issue two renewable energy credits for each kilowatt-hour generated.*

*''(E) To be eligible for a renewable energy credit, the unit of electric energy generated through the use of a renewable energy resource may be sold or may be used by the generator. If both a renewable energy resource and a nonrenewable energy resource are used to generate the electric energy, the Secretary shall issue credits based on the proportion of the renewable energy resource used. The Secretary shall identify renewable energy credits by type and date of generation.*

*''(5) When a generator sells electric energy generated through the use of a renewable energy resource to a retail electric supplier under a contract subject to section 210 of this Act, the retail electric supplier is treated as the generator of the electric energy for the purposes of this section for the duration of the contract.*

*''(6) The Secretary may issue credits for existing facility offsets to be applied against a retail electric supplier's own required annual percentage. The credits are not tradeable and may only be used in the calendar year generation actually occurs.*

*''(e) CREDIT TRADING.—A renewable energy credit may be sold or exchanged by the entity to whom issued or by any other entity who acquires the credit. A renewable energy credit for any year that is not used to satisfy the minimum renewable generation requirement of subsection (a) for that year may be carried forward for use within the next 4 years.*

*''(f) CREDIT BORROWING.—At any time before the end of calendar year 2005, a retail electric supplier that has reason to believe it will not have sufficient renewable energy credits to comply with subsection (a) may—*

*''(1) submit a plan to the Secretary demonstrating that the retail electric supplier will earn sufficient credits within the next 3 calendar years which, when taken into account, will enable the retail electric supplier's to meet the requirements of subsection (a) for calendar year 2005 and the subsequent calendar years involved; and*

*''(2) upon the approval of the plan by the Secretary, apply credits that the plan demonstrates will be earned within the next 3 calendar years to meet the requirements of subsection (a) for each calendar year involved.*

*''(g) CREDIT COST CAP.—The Secretary shall offer renewable energy credits for sale at the lesser of 3 cents per kilowatt-hour or 200 percent of the average market value of credits for the applicable compliance period. On January 1 of each year following calendar year 2005, the Secretary shall adjust for inflation the price charged per credit for such calendar year, based on the Gross Domestic Product Implicit Price Deflator.*

*''(h) ENFORCEMENT.—The Secretary may bring an action in the appropriate United States district court to impose a civil penalty on a retail electric supplier that does not comply with subsection (a), unless the retail electric supplier was unable to comply with subsection (a) for reasons outside of the supplier's reasonable control (including weather-related damage, mechanical failure, lack of transmission capacity or availability, strikes, lockouts, actions of a governmental authority). A retail electric supplier who does not submit the required number of renewable energy credits under subsection (a) shall be subject to a civil penalty of not more than the greater of 3 cents or 200 percent of the average market value of credits for the compliance period for each renewable energy credit not submitted.*

*''(i) INFORMATION COLLECTION.—The Secretary may collect the information necessary to verify and audit—*

*''(1) the annual electric energy generation and renewable energy generation of any entity applying for renewable energy credits under this section,*

*''(2) the validity of renewable energy credits submitted by a retail electric supplier to the Secretary, and*

*''(3) the quantity of electricity sales of all retail electric suppliers.*

*''(j) ENVIRONMENTAL SAVINGS CLAUSE.—Incremental hydropower shall be subject to all applicable environmental laws and licensing and regulatory requirements.*

*''(k) STATE SAVINGS CLAUSE.—This section does not preclude a State from requiring additional renewable energy generation in that State, or from specifying technology mix.*

*''(l) DEFINITIONS.—For purposes of this section:*

*''(1) BIOMASS.—The term 'biomass' means any organic material that is available on a renewable or recurring basis, including dedicated energy crops, trees grown for energy production, wood waste and wood residues, plants (including aquatic plants, grasses, and agricultural crops), residues, fibers, animal wastes and other organic waste materials, and fats and oils, except that with respect to material removed from National Forest System lands the term includes only organic material from—*

*''(A) thinnings from trees that are less than 12 inches in diameter;*

*''(B) slash;*

*''(C) brush; and*

*''(D) mill residues.*

*''(2) ELIGIBLE FACILITY.—The term 'eligible facility' means—*

*''(A) a facility for the generation of electric energy from a renewable energy resource that is placed in service on or after the date of enactment of this section; or*

*''(B) a repowering or cofiring increment that is placed in service on or after the date of enactment of this section at a facility for the generation of electric energy from a renewable energy resource that was placed in service before that date.*

*''(3) ELIGIBLE RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means solar, wind, ocean, or geothermal energy, biomass (excluding solid waste and paper that is commonly recycled), landfill gas, a generation offset, or incremental hydropower.*

*''(4) GENERATION OFFSET.—The term 'generation offset' means reduced electricity usage metered at a site where a customer consumes energy from a renewable energy technology.*

*''(5) EXISTING FACILITY OFFSET.—The term 'existing facility offset' means renewable energy generated from an existing facility, not classified as an eligible facility, that is owned or under contract to a retail electric supplier on the date of enactment of this section.*

*''(6) INCREMENTAL HYDROPOWER.—The term 'incremental hydropower' means additional generation that is achieved from increased efficiency or additions of capacity after the date of enactment of this section at a hydroelectric dam that was placed in service before that date.*

*''(7) INDIAN LAND.—The term 'Indian land' means—*

*''(A) any land within the limits of any Indian reservation, pueblo, or rancheria,*

*''(B) any land not within the limits of any Indian reservation, pueblo, or rancheria title to which was on the date of enactment of this paragraph either held by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,*

*''(C) any dependent Indian community, and*

*''(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.*

*''(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.*

*''(9) RENEWABLE ENERGY.—The term 'renewable energy' means electric energy generated by a renewable energy resource.*

*''(10) RENEWABLE ENERGY RESOURCE.—The term 'renewable energy resource' means solar, wind, ocean, or geothermal energy, biomass (including municipal solid waste), landfill gas, a generation offset, or incremental hydropower.*

*''(11) REPOWERING OR COFIRING INCREMENT.—The term 'repowering or cofiring increment' means the additional generation from a modification that is placed in service on or after the date of enactment of this section to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section, or the additional generation above the average generation in the 3 years preceding the date of enactment of this section, to expand electricity production at a facility used to generate electric energy from a renewable energy resource or to cofire biomass that was placed in service before the date of enactment of this section.*

*''(12) RETAIL ELECTRIC SUPPLIER.—The term 'retail electric supplier' means a person that*

*sells electric energy to electric consumers and sold not less than 1,000,000 megawatt-hours of electric energy to electric consumers for purposes other than resale during the preceding calendar year; except that such term does not include the United States, a State or any political subdivision of a State, or any agency, authority, or instrumentality of any one or more of the foregoing, or a rural electric cooperative.*

*''(13) RETAIL ELECTRIC SUPPLIER'S BASE AMOUNT.—The term 'retail electric supplier's base amount' means the total amount of electric energy sold by the retail electric supplier to electric customers during the most recent calendar year for which information is available, excluding electric energy generated by—*

*''(A) an eligible renewable energy resource;*

*''(B) municipal solid waste; or*

*''(C) a hydroelectric facility.*

*''(m) SUNSET.—This section expires December 31, 2030.''.*

***SEC. 265. RENEWABLE ENERGY ON FEDERAL LAND.***

*(a) COST-SHARE DEMONSTRATION PROGRAM.—Within 12 months after the date of enactment of this section, the Secretaries of the Interior, Agriculture, and Energy shall develop guidelines for a cost-share demonstration program for the development of wind and solar energy facilities on Federal land.*

*(b) DEFINITION OF FEDERAL LAND.—As used in this section, the term ''Federal land'' means land owned by the United States that is subject to the operation of the mineral leasing laws; and is either—*

*(1) public land as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1702(e)); or*

*(2) a unit of the National Forest System as that term is used in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).*

*(c) RIGHTS-OF-WAY.—The demonstration program shall provide for the issuance of rights-of-way pursuant to the provisions of title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) by the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and by the Secretary of Agriculture with respect to Federal lands under the jurisdiction of the Department of Agriculture.*

*(d) AVAILABLE SITES.—For purposes of this demonstration program, the issuance of rights-of-way shall be limited to areas—*

*(1) of high energy potential for wind or solar development;*

*(2) that have been identified by the wind or solar energy industry, through a process of nomination, application, or otherwise, as being of particular interest to one or both industries;*

*(3) that are not located within roadless areas;*

*(4) where operation of wind or solar facilities would be compatible with the scenic, recreational, environmental, cultural, or historic values of the Federal land, and would not require the construction of new roads for the siting of lines or other transmission facilities; and*

*(5) where issuance of the right-of-way is consistent with the land and resource management plans of the relevant land management agencies.*

*(e) COST-SHARE PAYMENTS BY DOE.—The Secretary of Energy, in cooperation with the Secretary of the Interior with respect to Federal land under the jurisdiction of the Department of the Interior, and the Secretary of Agriculture with respect to Federal land under the jurisdiction of the Department of Agriculture, shall determine if the portion of a project on Federal land is eligible for financial assistance pursuant to this section. Only those projects that are consistent with the requirements of this section and further the purposes of this section shall be eligible. In the event a project is selected for financial assistance, the Secretary of Energy shall provide no more than 15 percent of the costs of the project on the Federal land, and the remainder of the costs shall be paid by non-Federal sources.*

*(f) REVISION OF LAND USE PLANS.—The Secretary of the Interior shall consider development of wind and solar energy, as appropriate, in revisions of land use plans under section 202 of the Federal Land Policy and Management Act of 1976 (42 U.S.C. 1712); and the Secretary of Agriculture shall consider development of wind and solar energy, as appropriate, in revisions of land and resource management plans under section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). Nothing in this subsection shall preclude the issuance of a right-of-way for the development of a wind or solar energy project prior to the revision of a land use plan by the appropriate land management agency.*

*(g) REPORT TO CONGRESS.—Within 24 months after the date of enactment of this section, the Secretary of the Interior shall develop and report to Congress recommendations on any statutory or regulatory changes the Secretary believes would assist in the development of renewable energy on Federal land. The report shall include—*

*(1) a five-year plan developed by the Secretary of the Interior, in cooperation with the Secretary of Agriculture, for encouraging the development of wind and solar energy on Federal land in an environmentally sound manner; and*

*(2) an analysis of—*

*(A) whether the use of rights-of-ways is the best means of authorizing use of Federal land for the development of wind and solar energy, or whether such resources could be better developed through a leasing system, or other method;*

*(B) the desirability of grants, loans, tax credits or other provisions to promote wind and solar energy development on Federal land; and*

*(C) any problems, including environmental concerns, which the Secretary of the Interior or the Secretary of Agriculture have encountered in managing wind or solar energy projects on Federal land, or believe are likely to arise in relation to the development of wind or solar energy on Federal land;*

*(3) a list, developed in consultation with the Secretaries of Energy and Defense, of lands under the jurisdiction of the Departments of Energy and Defense that would be suitable for development for wind or solar energy, and recommended statutory and regulatory mechanisms for such development.*

*(h) NATIONAL ACADEMY OF SCIENCES STUDY.—Within 90 days after the enactment of this Act, the Secretary of the Interior shall contract with the National Academy of Sciences to study the potential for the development of wind, solar, and ocean energy on the Outer Continental Shelf; assess existing Federal authorities for the development of such resources; and recommend statutory and regulatory mechanisms for such development. The results of the study shall be transmitted to Congress within 24 months after the enactment of this Act.*

***Subtitle F—General Provisions***

***SEC. 271. CHANGE 3 CENTS TO 1.5 CENTS.***

*Not withstanding any other provision in this Act, ''3 cents'' shall be considered by law to be ''1.5 cents'' in any place ''3 cents'' appears in title II of this Act.*

***SEC. 272. BONNEVILLE POWER ADMINISTRATION BONDS.***

*Section 13 of the Federal Columbia River Transmission System Act (16 U.S.C. 838k) is amended—*

*(1) by striking the section heading and all that follows through ''(a) The Administrator'' and inserting the following:*

***''SEC. 13. BONNEVILLE POWER ADMINISTRATION BONDS.***

*''(a) BONDS.—*

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

*(2) by adding at the end the following:*

*''(2) ADDITIONAL BORROWING AUTHORITY.—In addition to the borrowing authority of the Administrator authorized under paragraph (1) or any other provision of law, an additional $1,300,000,000 is made available, to remain outstanding at any one time—*

*''(A) to provide funds to assist in financing the construction, acquisition, and replacement of the transmission system of the Bonneville Power Administration; and*

*''(B) to implement the authorities of the Administrator under the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839 et seq.).''.*

***TITLE III—HYDROELECTRIC RELICENSING***

***SEC. 301. ALTERNATIVE CONDITIONS AND FISHWAYS.***

*(a) ALTERNATIVE MANDATORY CONDITIONS.—Section 4 of the Federal Power Act (16 U.S.C. 797) is amended by adding at the end the following:*

*''(h)(1) Whenever any person applies for a license for any project works within any reservation of the United States under subsection (e), and the Secretary of the department under whose supervision such reservation falls (in this subsection referred to as the 'Secretary') shall deem a condition to such license to be necessary under the first proviso of such section, the license applicant may propose an alternative condition.*

*''(2) Notwithstanding the first proviso of subsection (e), the Secretary of the department under whose supervision the reservation falls shall accept the proposed alternative condition referred to in paragraph (1), and the Commission shall include in the license such alternative condition, if the Secretary of the appropriate department determines, based on substantial evidence provided by the license applicant, that the alternative condition—*

*''(A) provides for the adequate protection and utilization of the reservation; and*

*''(B) will either—*

*''(i) cost less to implement, or*

*''(ii) result in improved operation of the project works for electricity production as compared to the condition initially deemed necessary by the Secretary.*

*''(3) The Secretary shall submit into the public record of the Commission proceeding with any condition under subsection (e) or alternative condition it accepts under this subsection a written statement explaining the basis for such condition, and reason for not accepting any alternative condition under this subsection, including the effects of the condition accepted and alternatives not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.*

*''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative conditions.''.*

*(b) ALTERNATIVE FISHWAYS.—Section 18 of the Federal Power Act (16 U.S.C. 811) is amended by—*

*(1) inserting ''(a)'' before the first sentence; and*

*(2) adding at the end the following:*

*''(b)(1) Whenever the Secretary of the Interior or the Secretary of Commerce prescribes a fishway under this section, the license applicant or the licensee may propose an alternative to such prescription to construct, maintain, or operate a fishway.*

*''(2) Notwithstanding subsection (a), the Secretary of the Interior or the Secretary of Commerce, as appropriate, shall accept and prescribe, and the Commission shall require, the proposed alternative referred to in paragraph (1), if the Secretary of the appropriate department determines, based on substantial evidence provided by the licensee, that the alternative—*

*''(A) will be no less protective of the fish resources than the fishway initially prescribed by the Secretary; and*

''(B) will either—

''(i) cost less to implement, or

''(ii) result in improved operation of the project works for electricity production as compared to the fishway initially prescribed by the Secretary.

''(3) The Secretary shall submit into the public record of the Commission proceeding with any prescription under subsection (a) or alternative prescription it accepts under this subsection a written statement explaining the basis for such prescription, and reason for not accepting any alternative prescription under this subsection, including the effects of the prescription accepted or alternative not accepted on energy supply, distribution, cost, and use, air quality, flood control, navigation, and drinking, irrigation, and recreation water supply, based on such information as may be available to the Secretary, including information voluntarily provided in a timely manner by the applicant and others.

''(4) Nothing in this subsection shall prohibit other interested parties from proposing alternative prescriptions.''.

(c) TIME OF FILING APPLICATION.—Section 15(c)(1) of the Federal Power Act (16 U.S.C. 808(c)(1)) is amended by striking the first sentence and inserting the following:

''(1) Each application for a new license pursuant to this section shall be filed with the Commission—

''(A) at least 24 months before the expiration of the term of the existing license in the case of licenses that expire prior to 2008; and

''(B) at least 36 months before the expiration of the term of the existing license in the case of licenses that expire in 2008 or any year thereafter.''.

## TITLE IV—INDIAN ENERGY

### SEC. 401. COMPREHENSIVE INDIAN ENERGY PROGRAM.

Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501–3506) is amended by adding after section 2606 the following:

### ''SEC. 2607. COMPREHENSIVE INDIAN ENERGY PROGRAM.

''(a) DEFINITIONS.—For purposes of this section—

''(1) the term 'Director' means the Director of the Office of Indian Energy Policy and Programs established by section 217 of the Department of Energy Organization Act, and

''(2) the term 'Indian land' means—

''(A) any land within the limits of an Indian reservation, pueblo, or rancheria;

''(B) any land not within the limits of an Indian reservation, pueblo, or rancheria whose title is held—

''(i) in trust by the United States for the benefit of an Indian tribe,

''(ii) by an Indian tribe subject to restriction by the United States against alienation, or

''(iii) by a dependent Indian community; and

''(C) land conveyed to an Alaska Native Corporation under the Alaska Native Claims Settlement Act.

''(b) INDIAN ENERGY EDUCATION PLANNING AND MANAGEMENT ASSISTANCE.—(1) The Director shall establish programs within the Office of Indian Energy Policy and Programs to assist Indian tribes in meeting their energy education, research and development, planning, and management needs.

''(2) The Director may make grants, on a competitive basis, to an Indian tribe for—

''(A) renewable energy, energy efficiency, and conservation programs;

''(B) studies and other activities supporting tribal acquisition of energy supplies, services, and facilities;

''(C) planning, constructing, developing, operating, maintaining, and improving tribal electrical generation, transmission, and distribution facilities; and

''(D) developing, constructing, and interconnecting electric power transmission facilities with transmission facilities owned and operated by a Federal power marketing agency or an electric utility that provides open access transmission service.

''(3) The Director may develop, in consultation with Indian tribes, a formula for making grants under this section. The formula may take into account the following—

''(A) the total number of acres of Indian land owned by an Indian tribe;

''(B) the total number of households on the Indian tribe's Indian land;

''(C) the total number of households on the Indian tribe's Indian land that have no electricity service or are under-served; and

''(D) financial or other assets available to the Indian tribe from any source.

''(4) In making a grant under paragraph (2), the Director shall give priority to an application received from an Indian tribe that is not served or is served inadequately by an electric utility, as that term is defined in section 3(4) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2602(4)), or by a person, State agency, or any other non-Federal entity that owns or operates a local distribution facility used for the sale of electric energy to an electric consumer.

''(5) There are authorized to be appropriated to the Department of Energy such sums as may be necessary to carry out the purposes of this section.

''(6) The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

''(c) LOAN GUARANTEE PROGRAM.—

''(1) AUTHORITY.—The Secretary may guarantee not more than 90 percent of the unpaid principal and interest due on any loan made to any Indian tribe for energy development, including the planning, development, construction, and maintenance of electrical generation plants, and for transmission and delivery mechanisms for electricity produced on Indian land. A loan guaranteed under this subsection shall be made by—

''(A) a financial institution subject to the examination of the Secretary; or

''(B) an Indian tribe, from funds of the Indian tribe, to another Indian tribe.

''(2) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated to cover the cost of loan guarantees shall be available without fiscal year limitation to the Secretary to fulfill obligations arising under this subsection.

''(3) AUTHORIZATION OF APPROPRIATIONS.—(A) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

''(B) There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the administrative expenses related to carrying out the loan guarantee program established by this subsection.

''(4) LIMITATION ON AMOUNT.—The aggregate outstanding amount guaranteed by the Secretary of Energy at any one time under this subsection shall not exceed $2,000,000,000.

''(5) REGULATIONS.—The Secretary is authorized to promulgate such regulations as the Secretary determines to be necessary to carry out the provisions of this subsection.

''(d) INDIAN ENERGY PREFERENCE.—(1) An agency or department of the United States Government may give, in the purchase of electricity, oil, gas, coal, or other energy product or by-product, preference in such purchase to an energy and resource production enterprise, partnership, corporation, or other type of business organization majority or wholly owned and controlled by a tribal government.

''(2) In implementing this subsection, an agency or department shall pay no more than the prevailing market price for the energy product or by-product and shall obtain no less than existing market terms and conditions.

''(e) EFFECT ON OTHER LAWS.—This section does not—

''(1) limit the discretion vested in an Administrator of a Federal power marketing agency to market and allocate Federal power, or

''(2) alter Federal laws under which a Federal power marketing agency markets, allocates, or purchases power.''.

### SEC. 402. OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS.

Title II of the Department of Energy Organization Act is amended by adding at the end the following:

''OFFICE OF INDIAN ENERGY POLICY AND PROGRAMS

''SEC. 217. (a) There is established within the Department an Office of Indian Energy Policy and Programs. This Office shall be headed by a Director, who shall be appointed by the Secretary and compensated at the rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

''(b) The Director shall provide, direct, foster, coordinate, and implement energy planning, education, management, conservation, and delivery programs of the Department that—

''(1) promote tribal energy efficiency and utilization;

''(2) modernize and develop, for the benefit of Indian tribes, tribal energy and economic infrastructure related to natural resource development and electrification;

''(3) preserve and promote tribal sovereignty and self determination related to energy matters and energy deregulation;

''(4) lower or stabilize energy costs; and

''(5) electrify tribal members' homes and tribal lands.

''(c) The Director shall carry out the duties assigned the Secretary or the Director under title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.).''.

### SEC. 403. CONFORMING AMENDMENTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 2603(c) of the Energy Policy Act of 1992 (25 U.S.C. 3503(c)) is amended to read as follows:

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.''.

(b) TABLE OF CONTENTS.—The table of contents of the Department of Energy Act is amended by inserting after the item relating to section 216 the following new item:

''Sec. 217. Office of Indian Energy Policy and Programs.''.

(c) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by inserting ''Director, Office of Indian Energy Policy and Programs, Department of Energy.'' after ''Inspector General, Department of Energy.''.

### SEC. 404. SITING ENERGY FACILITIES ON TRIBAL LANDS.

(a) DEFINITIONS.—For purposes of this section:

(1) INDIAN TRIBE.—The term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, except that such term does not include any Regional Corporation as defined in section 3(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(g)).

(2) INTERESTED PARTY.—The term ''interested party'' means a person whose interests could be adversely affected by the decision of an Indian tribe to grant a lease or right-of-way pursuant to this section.

(3) PETITION.—The term ''petition'' means a written request submitted to the Secretary for the review of an action (or inaction) of the Indian tribe that is claimed to be in violation of the approved tribal regulations.

(4) RESERVATION.—The term ''reservation'' means—

(A) with respect to a reservation in a State other than Oklahoma, all land that has been set

*aside or that has been acknowledged as having been set aside by the United States for the use of an Indian tribe, the exterior boundaries of which are more particularly defined in a final tribal treaty, agreement, executive order, Federal statute, secretarial order, or judicial determination;*

*(B) with respect to a reservation in the State of Oklahoma, all land that is—*

*(i) within the jurisdictional area of an Indian tribe, and*

*(ii) within the boundaries of the last reservation of such tribe that was established by treaty, executive order, or secretarial order.*

*(5) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.*

*(6) TRIBAL LANDS.—The term 'tribal lands' means any tribal trust lands, or other lands owned by an Indian tribe that are within such tribe's reservation.*

*(b) LEASES INVOLVING GENERATION, TRANSMISSION, DISTRIBUTION OR ENERGY PROCESSING FACILITIES.—An Indian tribe may grant a lease of tribal land for electric generation, transmission, or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, and such leases shall not require the approval of the Secretary if the lease is executed under tribal regulations approved by the Secretary under this subsection and the term of the lease does not exceed 30 years.*

*(c) RIGHTS-OF-WAY FOR ELECTRIC GENERATION, TRANSMISSION, DISTRIBUTION OR ENERGY PROCESSING FACILITIES.—An Indian tribe may grant a right-of-way over tribal lands for a pipeline or an electric transmission or distribution line without separate approval by the Secretary, if—*

*(1) the right-of-way is executed under and complies with tribal regulations approved by the Secretary and the term of the right-of-way does not exceed 30 years; and*

*(2) the pipeline or electric transmission or distribution line serves—*

*(A) an electric generation, transmission or distribution facility located on tribal land, or*

*(B) a facility located on tribal land that processes or refines renewable or nonrenewable energy resources developed on tribal lands.*

*(d) RENEWALS.—Leases or rights-of-way entered into under this subsection may be renewed at the discretion of the Indian tribe in accordance with the requirements of this section.*

*(e) TRIBAL REGULATION REQUIREMENTS.—(1) The Secretary shall have the authority to approve or disapprove tribal regulations required under this subsection. The Secretary shall approve such tribal regulations if they are comprehensive in nature, including provisions that address—*

*(A) securing necessary information from the lessee or right-of-way applicant;*

*(B) term of the conveyance;*

*(C) amendments and renewals;*

*(D) consideration for the lease or right-of-way;*

*(E) technical or other relevant requirements;*

*(F) requirements for environmental review as set forth in paragraph (3);*

*(G) requirements for complying with all applicable environmental laws; and*

*(H) final approval authority.*

*(2) No lease or right-of-way shall be valid unless authorized in compliance with the approved tribal regulations.*

*(3) An Indian tribe, as a condition of securing Secretarial approval as contemplated in paragraph (1), must establish an environmental review process that includes the following—*

*(A) an identification and evaluation of all significant environmental impacts of the proposed action as compared to a no action alternative;*

*(B) identification of proposed mitigation;*

*(C) a process for ensuring that the public is informed of and has an opportunity to comment on the proposed action prior to tribal approval of the lease or right-of-way; and*

*(D) sufficient administrative support and technical capability to carry out the environmental review process.*

*(4) The Secretary shall review and approve or disapprove the regulations of the Indian tribe within 180 days of the submission of such regulations to the Secretary. Any disapproval of such regulations by the Secretary shall be accompanied by written documentation that sets forth the basis for the disapproval. The 180-day period may be extended by the Secretary after consultation with the Indian tribe.*

*(5) If the Indian tribe executes a lease or right-of-way pursuant to tribal regulations required under this subsection, the Indian tribe shall provide the Secretary with—*

*(A) a copy of the lease or right-of-way document and all amendments and renewals thereto; and*

*(B) in the case of regulations or a lease or right-of-way that permits payment to be made directly to the Indian tribe, documentation of the payments sufficient to enable the Secretary to discharge the trust responsibility of the United States as appropriate under existing law.*

*(6) The United States shall not be liable for losses sustained by any party to a lease executed pursuant to tribal regulations under this subsection, including the Indian tribe.*

*(7)(A) An interested party may, after exhaustion of tribal remedies, submit, in a timely manner, a petition to the Secretary to review the compliance of the Indian tribe with any tribal regulations approved under this subsection. If upon such review, the Secretary determines that the regulations were violated, the Secretary may take such action as may be necessary to remedy the violation, including rescinding or holding the lease or right-of-way in abeyance until the violation is cured. The Secretary may also rescind the approval of the tribal regulations and reassume the responsibility for approval of leases or rights-of-way associated with the facilities addressed in this section.*

*(B) If the Secretary seeks to remedy a violation described in subparagraph (A), the Secretary shall—*

*(i) make a written determination with respect to the regulations that have been violated;*

*(ii) provide the Indian tribe with a written notice of the alleged violation together with such written determination; and*

*(iii) prior to the exercise of any remedy or the rescission of the approval of the regulations involved and reassumption of the lease or right-of-way approval responsibility, provide the Indian tribe with a hearing and a reasonable opportunity to cure the alleged violation.*

*(C) The tribe shall retain all rights to appeal as provided by regulations promulgated by the Secretary.*

*(f) AGREEMENTS.—(1) Agreements between an Indian tribe and a business entity that are directly associated with the development of electric generation, transmission or distribution facilities, or facilities to process or refine renewable or nonrenewable energy resources developed on tribal lands, shall not separately require the approval of the Secretary pursuant to section 18 of title 25, United States Code, so long as the activity that is the subject of the agreement has been the subject of an environmental review process pursuant to subsection (e) of this section.*

*(2) The United States shall not be liable for any losses or damages sustained by any party, including the Indian tribe, that are associated with an agreement entered into under this subsection.*

*(g) DISCLAIMER.—Nothing in this section is intended to modify or otherwise affect the applicability of any provision of the Indian Mineral Leasing Act of 1938 (25 U.S.C. 396a–396g); Indian Mineral Development Act of 1982 (25 U.S.C. 2101–2108); Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201–1328); any amendments thereto; or any other laws not specifically addressed in this section.*

***SEC. 405. INDIAN MINERAL DEVELOPMENT ACT REVIEW.***

*(a) IN GENERAL.—The Secretary of the Interior shall conduct a review of the activities that have been conducted by the governments of Indian tribes under the authority of the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.).*

*(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs and the Committee on Energy and Natural Resources of the Senate a report containing—*

*(1) the results of the review;*

*(2) recommendations designed to help ensure that Indian tribes have the opportunity to develop their nonrenewable energy resources; and*

*(3) an analysis of the barriers to the development of energy resources on Indian land, including Federal policies and regulations, and make recommendations regarding the removal of those barriers.*

*(c) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations as provided in this subsection.*

***SEC. 406. RENEWABLE ENERGY STUDY.***

*(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, and once every 2 years thereafter, the Secretary of Energy shall transmit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on energy consumption and renewable energy development potential on Indian land. The report shall identify barriers to the development of renewable energy by Indian tribes, including Federal policies and regulations, and make recommendations regarding the removal of such barriers.*

*(b) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations as provided in this section.*

***SEC. 407. FEDERAL POWER MARKETING ADMINISTRATIONS.***

*Title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501) (as amended by section 201) is amended by adding at the end the following:*

***''SEC. 2608. FEDERAL POWER MARKETING ADMINISTRATIONS.***

*''(a) DEFINITION OF ADMINISTRATOR.—In this section, the term 'Administrator' means—*

*''(1) the Administrator of the Bonneville Power Administration; or*

*''(2) the Administrator of the Western Area Power Administration.*

*''(b) ASSISTANCE FOR TRANSMISSION STUDIES.—(1) Each Administrator may provide technical assistance to Indian tribes seeking to use the high-voltage transmission system for delivery of electric power. The costs of such technical assistance shall be funded—*

*''(A) by the Administrator using non-reimbursable funds appropriated for this purpose, or*

*''(B) by the Indian tribe.*

*''(2) PRIORITY FOR ASSISTANCE FOR TRANSMISSION STUDIES.—In providing discretionary assistance to Indian tribes under paragraph (1), each Administrator shall give priority in funding to Indian tribes that have limited financial capability to conduct such studies.*

*''(c) POWER ALLOCATION STUDY.—(1) Not later than 2 years after the date of enactment of this Act, the Secretary of Energy shall transmit to the Committees on Energy and Commerce and Resources of the House of Representatives and the Committees on Energy and Natural Resources and Indian Affairs of the Senate a report on Indian tribes' utilization of Federal power allocations of the Western Area Power Administration, or power sold by the Southwestern Power Administration, and the Bonneville Power Administration to or for the benefit*

*of Indian tribes in their service areas. The report shall identify—*

*''(A) the amount of power allocated to tribes by the Western Area Power Administration, and how the benefit of that power is utilized by the tribes;*

*''(B) the amount of power sold to tribes by other Power Marketing Administrations; and*

*''(C) existing barriers that impede tribal access to and utilization of Federal power, and opportunities to remove such barriers and improve the ability of the Power Marketing Administration to facilitate the utilization of Federal power by Indian tribes.*

*''(2) The Power Marketing Administrations shall consult with Indian tribes on a government-to-government basis in developing the report provided in this section.*

*''(d) AUTHORIZATION FOR APPROPRIATION.—There are authorized to be appropriated to the Secretary of Energy such sums as may be necessary to carry out the purposes of this section.''.*

***SEC. 408. FEASIBILITY STUDY OF COMBINED WIND AND HYDROPOWER DEMONSTRATION PROJECT.***

*(a) STUDY.—The Secretary of Energy, in coordination with the Secretary of the Army and the Secretary of the Interior, shall conduct a study of the cost and feasibility of developing a demonstration project that would use wind energy generated by Indian tribes and hydropower generated by the Army Corps of Engineers on the Missouri River to supply firming power to the Western Area Power Administration.*

*(b) SCOPE OF STUDY.—The study shall—*

*(1) determine the feasibility of the blending of wind energy and hydropower generated from the Missouri River dams operated by the Army Corps of Engineers;*

*(2) review historical purchase requirements and projected purchase requirements for firming and the patterns of availability and use of firming energy;*

*(3) assess the wind energy resource potential on tribal lands and projected cost savings through a blend of wind and hydropower over a thirty-year period;*

*(4) include a preliminary interconnection study and a determination of resource adequacy of the Upper Great Plains Region of the Western Area Power Administration;*

*(5) determine seasonal capacity needs and associated transmission upgrades for integration of tribal wind generation; and*

*(6) include an independent tribal engineer as a study team member.*

*(c) REPORT.—The Secretary of Energy and Secretary of the Army shall submit a report to Congress not later than 1 year after the date of enactment of this title. The Secretaries shall include in the report—*

*(1) an analysis of the potential energy cost savings to the customers of the Western Area Power Administration through the blend of wind and hydropower;*

*(2) an evaluation of whether a combined wind and hydropower system can reduce reservoir fluctuation, enhance efficient and reliable energy production and provide Missouri River management flexibility;*

*(3) recommendations for a demonstration project which the Western Area Power Administration could carry out in partnership with an Indian tribal government or tribal government energy consortium to demonstrate the feasibility and potential of using wind energy produced on Indian lands to supply firming energy to the Western Area Power Administration or other Federal power marketing agency; and*

*(4) an identification of the economic and environmental benefits to be realized through such a Federal-tribal partnership and identification of how such a partnership could contribute to the energy security of the United States.*

*(d) CONSULTATION.—The Secretary shall consult with Indian tribes on a government-to-government basis in developing the report and recommendations provided in this section.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 to carry out this section, which shall remain available until expended. All costs incurred by the Western Area Power Administration associated with performing the tasks required under this section shall be nonreimbursable.*

## *TITLE V—NUCLEAR POWER*

### *Subtitle A—Price-Anderson Act Reauthorization*

***SEC. 501. SHORT TITLE.***

*This subtitle may be cited as the ''Price-Anderson Amendments Act of 2002''.*

***SEC. 502. EXTENSION OF INDEMNIFICATION AUTHORITY.***

*(a) INDEMNIFICATION OF NUCLEAR REGULATORY COMMISSION LICENSEES.—Section 170c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended—*

*(1) in the subsection heading, by striking ''LICENSES'' and inserting ''LICENSEES''; and*

*(2) by striking ''August 1, 2002'' each place it appears and inserting ''August 1, 2012''.*

*(b) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking '', until August 1, 2002,''.*

*(c) INDEMNIFICATION OF NONPROFIT EDUCATIONAL INSTITUTIONS.—Section 170k. 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 ''August 1, 2012''.*

***SEC. 503. DEPARTMENT OF ENERGY LIABILITY LIMIT.***

*(a) INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended by striking paragraph (2) and inserting the following:*

*''(2) In agreements of indemnification entered into under paragraph (1), the Secretary—*

*''(A) may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity; and*

*''(B) shall indemnify the persons indemnified against such 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 such contract and for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.''.*

*(b) CONTRACT AMENDMENTS.—Section 170d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is further amended by striking paragraph (3) and inserting the following:*

*''(3) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person under this section shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 2002, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection.''.*

*(c) LIABILITY LIMIT.—Section 170e.(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. 504. INCIDENTS OUTSIDE THE UNITED STATES.***

*(a) AMOUNT OF INDEMNIFICATION.—Section 170d.(5) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(5)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.*

*(b) LIABILITY LIMIT.—Section 170e.(4) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)(4)) is amended by striking ''$100,000,000'' and inserting ''$500,000,000''.*

***SEC. 505. REPORTS.***

*Section 170p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by striking ''August 1, 1998'' and inserting ''August 1, 2008''.*

***SEC. 506. INFLATION ADJUSTMENT.***

*Section 170t. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(t)) is amended—*

*(1) by redesignating paragraph (2) as paragraph (3); and*

*(2) by adding after paragraph (1) the following:*

*''(2) The Secretary shall adjust the amount of indemnification provided under an agreement of indemnification under subsection d. not less than once during each 5-year period following July 1, 2002, 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. 507. CIVIL PENALTIES.***

*(a) REPEAL OF AUTOMATIC REMISSION.—Section 234Ab.(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(b)(2)) is amended by striking the last sentence.*

*(b) LIMITATION FOR NOT-FOR-PROFIT INSTITUTIONS.—Subsection d. of section 234A of the Atomic Energy Act of 1954 (42 U.S.C. 2282a(d)) is amended to read as follows:*

*''d.(1) Notwithstanding subsection a., in the case of any not-for-profit contractor, subcontractor, or supplier, the total amount of civil penalties assessed under subsection a. may not exceed the total amount of fees paid within any one-year period (as determined by the Secretary) under the contract under which the violation occurs.*

*''(2) For purposes of this section, the term 'not-for-profit' means that no part of the net earnings of the contractor, subcontractor, or supplier inures, or may lawfully inure, to the benefit of any natural person or for-profit artificial person.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall not apply to any violation of the Atomic Energy Act of 1954 occurring under a contract entered into before the date of enactment of this section.*

***SEC. 508. TREATMENT OF MODULAR REACTORS.***

*Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by adding at the end the following:*

*''(5)(A) For purposes of this section only, the Commission shall consider a combination of facilities described in subparagraph (B) to be a single facility having a rated capacity of 100,000 electrical kilowatts or more.*

*''(B) A combination of facilities referred to in subparagraph (A) is two or more facilities located at a single site, each of which has a rated capacity of 100,000 electrical kilowatts or more but not more than 300,000 electrical kilowatts, with a combined rated capacity of not more than 1,300,000 electrical kilowatts.''.*

***SEC. 509. EFFECTIVE DATE.***

*The amendments made by sections 503(a) and 504 do not apply to any nuclear incident that occurs before the date of the enactment of this subtitle.*

### *Subtitle B—Miscellaneous Provisions*

***SEC. 511. URANIUM SALES.***

*(a) INVENTORY SALES.—Section 3112(d) of the USEC Privatization Act (42 U.S.C. 2297h–10(d)) is amended to read as follows:*

*''(d) INVENTORY SALES.—(1) In addition to the transfers authorized under subsections (b), (c), and (e), the Secretary may, from time to time, sell or transfer uranium (including natural uranium concentrates, natural uranium hexafluoride, enriched uranium, and depleted uranium) from the Department of Energy's stockpile.*

''(2) Except as provided in subsections (b), (c), and (e), the Secretary may not deliver uranium in any form for consumption by end users in any year in excess of the following amounts:

**''Annual Maximum Deliveries to End Users**

| ''Year: | (Million lbs. $U_3O_8$ equivalent) |
|---|---|
| 2003 through 2009 | 3 |
| 2010 | 5 |
| 2011 | 5 |
| 2012 | 7 |
| 2013 and each year thereafter | 10. |

''(3) Except as provided in subsections (b), (c), and (e), no sale or transfer of uranium in any form shall be made unless—

''(A) the President determines that the material is not necessary for national security needs;

''(B) the Secretary determines, based on the written views of the Secretary of State and the Assistant to the President for National Security Affairs, that the sale or transfer will not adversely affect the national security interests of the United States;

''(C) the Secretary determines that the sale of the material will not have an adverse material impact on the domestic uranium mining, conversion, or enrichment industry, taking into account the sales of uranium under the Russian HEU Agreement and the Suspension Agreement; and

''(D) the price paid to the Secretary will not be less than the fair market value of the material.''.

(b) EXEMPT TRANSFERS AND SALES.—Section 3112(e) of the USEC Privatization Act (42 U.S.C. 2297h–10(e)) is amended to read as follows:

''(e) EXEMPT SALES OR TRANSFERS.—Notwithstanding subsection (d)(2), the Secretary may transfer or sell uranium—

''(1) to the Tennessee Valley Authority for use pursuant to the Department of Energy's highly enriched uranium or tritium program, to the extent provided by law;

''(2) to research and test reactors under the University Reactor Fuel Assistance and Support Program or the Reduced Enrichment for Research and Test Reactors Program;

''(3) to USEC Inc. to replace contaminated uranium received from the Department of Energy when the United States Enrichment Corporation was privatized;

''(4) to any person for emergency purposes in the event of a disruption in supply to end users in the United States; and

''(5) to any person for national security purposes, as determined by the Secretary.''.

**SEC. 512. REAUTHORIZATION OF THORIUM REIMBURSEMENT.**

(a) REIMBURSEMENT OF THORIUM LICENSEES.—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a) is amended—

(1) by striking ''$140,000,000'' and inserting ''$365,000,000''; and

(2) by adding at the end the following: ''Such payments shall not exceed the following amounts:

''(i) $90,000,000 in fiscal year 2002.

''(ii) $55,000,000 in fiscal year 2003.

''(iii) $20,000,000 in fiscal year 2004.

''(iv) $20,000,000 in fiscal year 2005.

''(v) $20,000,000 in fiscal year 2006.

''(vi) $20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.''.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1003(a) of the Energy Policy Act of 1992 (42 U.S.C. 2296a–2) is amended by striking ''$490,000,000'' and inserting ''$715,000,000''.

(c) DECONTAMINATION AND DECOMMISSIONING FUND.—Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g–1(a)) is amended—

(1) by striking ''$488,333,333'' and inserting ''$518,233,333''; and

(2) by inserting after ''inflation'' the following: ''beginning on the date of enactment of the Energy Policy Act of 1992''.

**SEC. 513. FAST FLUX TEST FACILITY.**

The Secretary of Energy shall not reactivate the Fast Flux Test Facility to conduct—

(1) any atomic energy defense activity,

(2) any space-related mission, or

(3) any program for the production or utilization of nuclear material if the Secretary has determined, in a record of decision, that the program can be carried out at existing operating facilities.

**SEC. 514. NUCLEAR POWER 2010.**

(a) DEFINITIONS.—In this section:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) OFFICE.—The term ''Office'' means the Office of Nuclear Energy Science and Technology of the Department of Energy.

(3) DIRECTOR.—The term ''Director'' means the Director of the Office of Nuclear Energy Science and Technology of the Department of Energy.

(4) PROGRAM.—The term ''Program'' means the Nuclear Power 2010 Program.

(b) ESTABLISHMENT.—The Secretary shall carry out a program, to be managed by the Director.

(c) PURPOSE.—The program shall aggressively pursue those activities that will result in regulatory approvals and design completion in a phased approach, with joint government/industry cost sharing, which would allow for the construction and startup of new nuclear plants in the United States by 2010.

(d) ACTIVITIES.—In carrying out the program, the Director shall—

(1) issue a solicitation to industry seeking proposals from joint venture project teams comprised of reactor vendors and power generation companies to participate in the Nuclear Power 2010 program;

(2) seek innovative business arrangements, such as consortia among designers, constructors, nuclear steam supply systems and major equipment suppliers, and plant owner/operators, with strong and common incentives to build and operate new plants in the United States;

(3) conduct the Nuclear Power 2010 program consistent with the findings of ''A Roadmap to Deploy New Nuclear Power Plants in the United States by 2010'' issued by the Near-Term Deployment Working Group of the Nuclear Energy Research Advisory Committee of the Department of Energy;

(4) rely upon the expertise and capabilities of the Department of Energy national laboratories and sites in the areas of advanced nuclear fuel cycles and fuels testing, giving consideration to existing lead laboratory designations and the unique capabilities and facilities available at each national laboratory and site;

(5) pursue deployment of both water-cooled and gas-cooled reactor designs on a dual track basis that will provide maximum potential for the success of both;

(6) include participation of international collaborators in research and design efforts where beneficial; and

(7) seek to accomplish the essential regulatory and technical work, both generic and design-specific, to make possible new nuclear plants within this decade.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out the purposes of this section such sums as are necessary for fiscal year 2003 and for each fiscal year thereafter.

**SEC. 515. OFFICE OF SPENT NUCLEAR FUEL RESEARCH.**

(a) FINDINGS.—Congress finds that—

(1) before the Federal Government takes any irreversible action relating to the disposal of spent nuclear fuel, Congress must determine whether the spent fuel in the repository should be treated as waste subject to permanent burial or should be considered an energy resource that is needed to meet future energy requirements; and

(2) national policy on spent nuclear fuel may evolve with time as improved technologies for spent fuel are developed or as national energy needs evolve.

(b) DEFINITIONS.—In this section:

(1) ASSOCIATE DIRECTOR.—The term ''Associate Director'' means the Associate Director of the Office.

(2) OFFICE.—The term ''Office'' means the Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(c) ESTABLISHMENT.—There is established an Office of Spent Nuclear Fuel Research within the Office of Nuclear Energy Science and Technology of the Department of Energy.

(d) HEAD OF OFFICE.—The Office shall be headed by the Associate Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Nuclear Energy Science and Technology, and compensated at a rate determined by applicable law.

(e) DUTIES OF THE ASSOCIATE DIRECTOR.—

(1) IN GENERAL.—The Associate Director shall be responsible for carrying out an integrated research, development, and demonstration program on technologies for treatment, recycling, and disposal of high-level nuclear radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary.

(2) PARTICIPATION.—The Associate Director shall coordinate the participation of national laboratories, universities, the commercial nuclear industry, and other organizations in the investigation of technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste.

(3) ACTIVITIES.—The Associate Director shall—

(A) develop a research plan to provide recommendations by 2015;

(B) identify promising technologies for the treatment, recycling, and disposal of spent nuclear fuel and high-level radioactive waste;

(C) conduct research and development activities for promising technologies;

(D) ensure that all activities include as key objectives minimization of proliferation concerns and risk to the health of the general public or site workers, as well as development of cost-effective technologies;

(E) require research on both reactor- and accelerator-based transmutation systems;

(F) require research on advanced processing and separations;

(G) include participation of international collaborators in research efforts, and provide funding to a collaborator that brings unique capabilities not available in the United States if the country in which the collaborator is located is unable to provide for their support; and

(H) ensure that research efforts are coordinated with research on advanced fuel cycles and reactors conducted by the Office of Nuclear Energy Science and Technology.

(f) GRANT AND CONTRACT AUTHORITY.—The Secretary may make grants, or enter into contracts, for the purposes of the research projects and activities described in this section.

(g) REPORT.—The Associate Director shall annually submit to Congress a report on the activities and expenditures of the Office that describes the progress being made in achieving the objectives of this section.

**SEC. 516. DECOMMISSIONING PILOT PROGRAM.**

(a) PILOT PROGRAM.—The Secretary of Energy shall establish a decommissioning pilot program to decommission and decontaminate the sodium-cooled fast breeder experimental test-site reactor located in northwest Arkansas in accordance with the decommissioning activities contained in the August 31, 1998, Department of Energy report on the reactor.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $16,000,000.

### Subtitle C—Growth of Nuclear Energy

**SEC. 521. COMBINED LICENSE PERIODS.**

*Section 103c. of the Atomic Energy Act of 1954 (42 U.S.C. 2133(c)) is amended—*

*(1) by striking ''c. Each such'' and inserting the following:*

*''c. LICENSE PERIOD.—*

*''(1) IN GENERAL.—Each such''; and*

*(2) by adding at the end the following:*

*''(2) COMBINED LICENSES.—In the case of a combined construction and operating license issued under section 185(b), the duration of the operating phase of the license period shall not be less than the duration of the operating license if application had been made for separate construction and operating licenses.''.*

### Subtitle D—NRC Regulatory Reform

**SEC. 531. ANTITRUST REVIEW.**

*(a) IN GENERAL.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by adding at the end the following:*

*''d. ANTITRUST LAWS.—*

*''(1) NOTIFICATION.—Except as provided in paragraph (4), when the Commission proposes to issue a license under section 103 or 104b., the Commission shall notify the Attorney General of the proposed license and the proposed terms and conditions of the license.*

*''(2) ACTION BY THE ATTORNEY GENERAL.—Within a reasonable time (but not more than 90 days) after receiving notification under paragraph (1), the Attorney General shall submit to the Commission and publish in the Federal Register a determination whether, insofar as the Attorney General is able to determine, the proposed license would tend to create or maintain a situation inconsistent with the antitrust laws.*

*''(3) INFORMATION.—On the request of the Attorney General, the Commission shall furnish or cause to be furnished such information as the Attorney General determines to be appropriate or necessary to enable the Attorney General to make the determination under paragraph (2).*

*''(4) APPLICABILITY.—This subsection shall not apply to such classes or type of licenses as the Commission, with the approval of the Attorney General, determines would not significantly affect the activities of a licensee under the antitrust laws.''.*

*(b) CONFORMING AMENDMENT.—Section 105c. of the Atomic Energy Act of 1954 (42 U.S.C. 2135(c)) is amended by adding at the end the following:*

*''(9) APPLICABILITY.—This subsection does not apply to an application for a license to construct or operate a utilization facility under section 103 or 104b. that is filed on or after the date of enactment of subsection d.''.*

**SEC. 532. DECOMMISSIONING.**

*(a) AUTHORITY OVER FORMER LICENSEES FOR DECOMMISSIONING FUNDING.—Section 161i. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(i)) is amended—*

*(1) by striking ''and (3)'' and inserting ''(3)''; and*

*(2) by inserting before the semicolon at the end the following: '', and (4) to ensure that sufficient funds will be available for the decommissioning of any production or utilization facility licensed under section 103 or 104b., including standards and restrictions governing the control, maintenance, use, and disbursement by any former licensee under this Act that has control over any fund for the decommissioning of the facility''.*

*(b) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Section 523 of title 11, United States Code, is amended by adding at the end the following:*

*''(f) TREATMENT OF NUCLEAR REACTOR FINANCIAL OBLIGATIONS.—Notwithstanding any other provision of this title—*

*''(1) any funds or other assets held by a licensee or former licensee of the Nuclear Regulatory Commission, or by any other person, to satisfy the responsibility of the licensee, former licensee, or any other person to comply with a regulation or order of the Nuclear Regulatory Commission governing the decontamination and decommissioning of a nuclear power reactor licensed under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, other than a claim resulting from an activity undertaken to satisfy that responsibility, until the decontamination and decommissioning of the nuclear power reactor is completed to the satisfaction of the Nuclear Regulatory Commission;*

*''(2) obligations of licensees, former licensees, or any other person to use funds or other assets to satisfy a responsibility described in paragraph (1) may not be rejected, avoided, or discharged in any proceeding under this title or in any liquidation, reorganization, receivership, or other insolvency proceeding under Federal or State law; and*

*''(3) private insurance premiums and standard deferred premiums held and maintained in accordance with section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) shall not be used to satisfy the claim of any creditor in any proceeding under this title, until the indemnification agreement executed in accordance with section 170c. of that Act (42 U.S.C. 2210(c)) is terminated.''.*

### Subtitle E—NRC Personnel Crisis

**SEC. 541. ELIMINATION OF PENSION OFFSET.**

*Section 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201) is amended by adding at the end the following:*

*''y. exempt from the application of sections 8344 and 8468 of title 5, United States Code, an annuitant who was formerly an employee of the Commission who is hired by the Commission as a consultant, if the Commission finds that the annuitant has a skill that is critical to the performance of the duties of the Commission.''.*

**SEC. 542. NRC TRAINING PROGRAM.**

*(a) IN GENERAL.—In order to maintain the human resource investment and infrastructure of the United States in the nuclear sciences, health physics, and engineering fields, in accordance with the statutory authorities of the Commission relating to the civilian nuclear energy program, the Nuclear Regulatory Commission shall carry out a training and fellowship program to address shortages of individuals with critical safety skills.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $1,000,000 for each of fiscal years 2003 through 2006.*

*(2) AVAILABILITY.—Funds made available under paragraph (1) shall remain available until expended.*

## DIVISION B—DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

## TITLE VI—OIL AND GAS PRODUCTION

**SEC. 601. PERMANENT AUTHORITY TO OPERATE THE STRATEGIC PETROLEUM RESERVE.**

*(a) AMENDMENT TO TITLE I OF THE ENERGY POLICY AND CONSERVATION ACT.—Title I of the Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—*

*(1) by striking section 166 (42 U.S.C. 6246) and inserting—*

*''SEC. 166. There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.''; and*

*(2) by striking part E (42 U.S.C. 6251; relating to the expiration of title I of the Act) and its heading.*

*(b) AMENDMENT TO TITLE II OF THE ENERGY POLICY AND CONSERVATION ACT.—Title II of the Energy Policy and Conservation Act (42 U.S.C. 6271 et seq.) is amended—*

*(1) by striking section 256(h) (42 U.S.C. 6276(h)) and inserting—*

*''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this part, to remain available until expended.'';*

*(2) by striking section 273(e) (42 U.S.C. 6283(e); relating to the expiration of summer fill and fuel budgeting programs); and*

*(3) by striking part D (42 U.S.C. 6285; relating to the expiration of title II of the Act) and its heading.*

*(c) TECHNICAL AMENDMENTS.—The table of contents for the Energy Policy and Conservation Act is amended by striking the items relating to part D of title I and part D of title II.*

**SEC. 602. FEDERAL ONSHORE LEASING PROGRAMS FOR OIL AND GAS.**

*(a) TIMELY ACTION ON LEASES AND PERMITS.—To ensure timely action on oil and gas leases and applications for permits to drill on lands otherwise available for leasing, the Secretary of the Interior shall—*

*(1) ensure expeditious compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C));*

*(2) improve consultation and coordination with the States; and*

*(3) improve the collection, storage, and retrieval of information related to such leasing activities.*

*(b) IMPROVED ENFORCEMENT.—The Secretary shall improve inspection and enforcement of oil and gas activities, including enforcement of terms and conditions in permits to drill.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—For each of the fiscal years 2003 through 2006, in addition to amounts otherwise authorized to be appropriated for the purpose of carrying out section 17 of the Mineral Leasing Act (30 U.S.C. 226), there are authorized to be appropriated to the Secretary of the Interior—*

*(1) $40,000,000 for the purpose of carrying out paragraphs (1) through (3) of subsection (a); and*

*(2) $20,000,000 for the purpose of carrying out subsection (b).*

**SEC. 603. OIL AND GAS LEASE ACREAGE LIMITATIONS.**

*Section 27(d)(1) of the Mineral Leasing Act (30 U.S.C. 184(d)(1)) is amended by inserting after ''acreage held in special tar sand areas'' the following: ''as well as acreage under any lease any portion of which has been committed to a federally approved unit or cooperative plan or communitization agreement, or for which royalty, including compensatory royalty or royalty in kind, was paid in the preceding calendar year,''.*

**SEC. 604. ORPHANED AND ABANDONED WELLS ON FEDERAL LAND.**

*(a) ESTABLISHMENT.—(1) The Secretary of the Interior, in cooperation with the Secretary of Agriculture, shall establish a program to ensure within 3 years after the date of enactment of this Act, remediation, reclamation, and closure of orphaned oil and gas wells located on lands administered by the land management agencies within the Department of the Interior and the United States Forest Service that are—*

*(A) abandoned;*

*(B) orphaned; or*

*(C) idled for more than 5 years and having no beneficial use.*

*(2) The program shall include a means of ranking critical sites for priority in remediation based on potential environmental harm, other land use priorities, and public health and safety.*

*(3) The program shall provide that responsible parties be identified wherever possible and that the costs of remediation be recovered.*

*(4) In carrying out the program, the Secretary of the Interior shall work cooperatively with the Secretary of Agriculture and the States within which the Federal lands are located, and shall consult with the Secretary of Energy, and the Interstate Oil and Gas Compact Commission.*

*(b) PLAN.—Within 6 months from the date of enactment of this section, the Secretary of the*

*Interior, in cooperation with the Secretary of Agriculture, shall prepare a plan for carrying out the program established under subsection (a). Copies of the plan shall be transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Interior $5,000,000 for each of fiscal years 2003 through 2005 to carry out the activities provided for in this section.*

***SEC. 605. ORPHANED AND ABANDONED OIL AND GAS WELL PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary of Energy shall establish a program to provide technical assistance to the various oil and gas producing States to facilitate State efforts over a 10-year period to ensure a practical and economical remedy for environmental problems caused by orphaned and abandoned exploration or production well sites on State and private lands. The Secretary shall work with the States, through the Interstate Oil and Gas Compact Commission, to assist the States in quantifying and mitigating environmental risks of onshore abandoned and orphaned wells on State and private lands.*

*(b) PROGRAM ELEMENTS.—The program should include—*

*(1) mechanisms to facilitate identification of responsible parties wherever possible;*

*(2) criteria for ranking critical sites based on factors such as other land use priorities, potential environmental harm and public visibility; and*

*(3) information and training programs on best practices for remediation of different types of sites.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Energy for the activities under this section $5,000,000 for each of fiscal years 2003 through 2005 to carry out the provisions of this section.*

***SEC. 606. OFFSHORE DEVELOPMENT.***

*Section 5 of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1334) is amended by adding at the end the following:*

*''(k) SUSPENSION OF OPERATIONS FOR SUBSALT EXPLORATION.—Notwithstanding any other provision of law or regulation, the Secretary may grant a request for a suspension of operations under any lease to allow the lessee to reprocess or reinterpret geologic or geophysical data beneath allocthonous salt sheets, when in the Secretary's judgment such suspension is necessary to prevent waste caused by the drilling of unnecessary wells, and to maximize ultimate recovery of hydrocarbon resources under the lease. Such suspension shall be limited to the minimum period of time the Secretary determines is necessary to achieve the objectives of this subsection.''.*

***SEC. 607. COALBED METHANE STUDY.***

*(a) STUDY.—The National Academy of Sciences shall conduct a study on the effects of coalbed methane production on surface and water resources.*

*(b) DATA ANALYSIS.—The study shall analyze available hydrogeologic and water quality data, along with other pertinent environmental or other information to determine—*

*(1) adverse effects associated with surface or subsurface disposal of waters produced during extraction of coalbed methane;*

*(2) depletion of groundwater aquifers or drinking water sources associated with production of coalbed methane;*

*(3) any other significant adverse impacts to surface or water resources associated with production of coalbed methane; and*

*(4) production techniques or other factors that can mitigate adverse impacts from coalbed methane development.*

*(c) RECOMMENDATIONS.—The study shall analyze existing Federal and State laws and regulations, and make recommendations as to changes, if any, to Federal law necessary to address adverse impacts to surface or water resources attributable to coalbed methane development.*

*(d) COMPLETION OF STUDY.—The National Academy of Sciences shall submit the study to the Secretary of the Interior within 18 months after the date of enactment of this Act, and shall make the study available to the public at the same time.*

*(e) REPORT TO CONGRESS.—The Secretary of the Interior shall report to Congress within 6 months of her receipt of the study on—*

*(1) the findings and recommendations of the study;*

*(2) the Secretary's agreement or disagreement with each of its findings and recommendations; and*

*(3) any recommended changes in funding to address the effects of coalbed methane production on surface and water resources.*

***SEC. 608. FISCAL POLICIES TO MAXIMIZE RECOVERY OF DOMESTIC OIL AND GAS RESOURCES.***

*(a) EVALUATION.—The Secretary of Energy, in coordination with the Secretaries of the Interior, Commerce, and Treasury, Indian tribes and the Interstate Oil and Gas Compact Commission, shall evaluate the impact of existing Federal and State tax and royalty policies on the development of domestic oil and gas resources and on revenues to Federal, State, local and tribal governments.*

*(b) SCOPE.—The evaluation under subsection (a) shall—*

*(1) analyze the impact of fiscal policies on oil and natural gas exploration, development drilling, and production under different price scenarios, including the impact of the individual and corporate Alternative Minimum Tax, State and local production taxes and fixed royalty rates during low price periods;*

*(2) assess the effect of existing Federal and State fiscal policies on investment under different geological and developmental circumstances, including but not limited to deepwater environments, subsalt formations, deep and deviated wells, coalbed methane and other unconventional oil and gas formations;*

*(3) assess the extent to which Federal and State fiscal policies negatively impact the ultimate recovery of resources from existing fields and smaller accumulations in offshore waters, especially in water depths less than 800 meters, of the Gulf of Mexico;*

*(4) compare existing Federal and State policies with tax and royalty regimes in other countries with particular emphasis on similar geological, developmental and infrastructure conditions; and*

*(5) evaluate how alternative tax and royalty policies, including counter-cyclical measures, could increase recovery of domestic oil and natural gas resources and revenues to Federal, State, local and tribal governments.*

*(c) POLICY RECOMMENDATIONS.—Based upon the findings of the evaluation under subsection (a), a report describing the findings and recommendations for policy changes shall be provided to the President, the Congress, the Governors of the member States of the Interstate Oil and Gas Compact Commission, and Indian tribes having an oil and gas lease approved by the Secretary of the Interior. The recommendations should ensure that the public interest in receiving the economic benefits of tax and royalty revenues is balanced with the broader national security and economic interests in maximizing recovery of domestic resources. The report should include recommendations regarding actions to—*

*(1) ensure stable development drilling during periods of low oil and/or natural gas prices to maintain reserve replacement and deliverability;*

*(2) minimize the negative impact of a volatile investment climate on the oil and gas service industry and domestic oil and gas exploration and production;*

*(3) ensure a consistent level of domestic activity to encourage the education and retention of a technical workforce; and*

*(4) maintain production capability during periods of low oil and/or natural gas prices.*

*(d) ROYALTY GUIDELINES.—The recommendations required under (c) should include guidelines for private resource holders as to the appropriate level of royalties given geology, development cost, and the national interest in maximizing recovery of oil and gas resources.*

*(e) REPORT.—The study under subsection (a) shall be completed not later than 18 months after the date of enactment of this section. The report and recommendations required in (c) shall be transmitted to the President, the Congress, Indian tribes, and the Governors of the member States of the Interstate Oil and Gas Compact Commission.*

***SEC. 609. STRATEGIC PETROLEUM RESERVE.***

*(a) FULL CAPACITY.—The President shall—*

*(1) fill the Strategic Petroleum Reserve established pursuant to part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231 et seq.) to full capacity as soon as practicable;*

*(2) acquire petroleum for the Strategic Petroleum Reserve by the most practicable and cost-effective means, including the acquisition of crude oil the United States is entitled to receive in kind as royalties from production on Federal lands; and*

*(3) ensure that the fill rate minimizes impacts on petroleum markets.*

*(b) RECOMMENDATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a plan to—*

*(1) eliminate any infrastructure impediments that may limit maximum drawdown capability; and*

*(2) determine whether the capacity of the Strategic Petroleum Reserve on the date of enactment of this section is adequate in light of the increasing consumption of petroleum and the reliance on imported petroleum.*

***SEC. 610. HYDRAULIC FRACTURING.***

*Section 1421 of the Safe Drinking Water Act (42 U.S.C. 300h) is amended by adding at the end the following:*

*''(e) HYDRAULIC FRACTURING FOR OIL AND GAS PRODUCTION.—*

*''(1) STUDY OF THE EFFECTS OF HYDRAULIC FRACTURING.—*

*''(A) IN GENERAL.—As soon as practicable, but in no event later than 24 months after the date of enactment of this subsection, the Administrator shall complete a study of the known and potential effects on underground drinking water sources of hydraulic fracturing, including the effects of hydraulic fracturing on underground drinking water sources on a nationwide basis, and within specific regions, States, or portions of States.*

*''(B) CONSULTATION.—In planning and conducting the study, the Administrator shall consult with the Secretary of the Interior, the Secretary of Energy, the Ground Water Protection Council, affected States, and, as appropriate, representatives of environmental, industry, academic, scientific, public health, and other relevant organizations. Such study may be accomplished in conjunction with other ongoing studies related to the effects of oil and gas production on groundwater resources.*

*''(C) STUDY ELEMENTS.—The study conducted under subparagraph (A) shall, at a minimum, examine and make findings as to whether—*

*''(i) such hydraulic fracturing has endangered or will endanger (as defined under subsection (d)(2)) underground drinking water sources, including those sources within specific regions, States or portions of States;*

*''(ii) there are specific methods, practices, or hydrogeologic circumstances in which hydraulic fracturing has endangered or will endanger underground drinking water sources; and*

*''(iii) there are any precautionary actions that may reduce or eliminate any such endangerment.*

''(D) STUDY OF HYDRAULIC FRACTURING IN A PARTICULAR TYPE OF GEOLOGIC FORMATION.—The Administrator may also complete a separate study on the known and potential effects on underground drinking water sources of hydraulic fracturing in a particular type of geologic formation:

''(i) If such a study is undertaken, the Administrator shall follow the procedures for study preparation and independent scientific review set forth in subparagraphs (1) (B) and (C) and (2) of this subsection. The Administrator may complete this separate study prior to the completion of the broader study of hydraulic fracturing required pursuant to subparagraph (A) of this subsection.

''(ii) At the conclusion of independent scientific review for any separate study, the Administrator shall determine, pursuant to paragraph (3), whether regulation of hydraulic fracturing in the particular type of geologic formation addressed in the separate study is necessary under this part to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State. Subparagraph (4) of this subsection shall apply to any such determination by the Administrator.

''(iii) If the Administrator completes a separate study, the Administrator may use the information gathered in the course of such a study in undertaking her broad study to the extent appropriate. The broader study need not include a reexamination of the conclusions reached by the Administrator in any separate study.

''(2) INDEPENDENT SCIENTIFIC REVIEW.—

''(A) IN GENERAL.—Prior to the time the study under paragraph (1) is completed, the Administrator shall enter into an appropriate agreement with the National Academy of Sciences to have the Academy review the conclusions of the study.

''(B) REPORT.—Not later than 11 months after entering into an appropriate agreement with the Administrator, the National Academy of Sciences shall report to the Administrator, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Environment and Public Works of the Senate, on the—

''(i) findings related to the study conducted by the Administrator under paragraph (1);

''(ii) the scientific and technical basis for such findings; and

''(iii) recommendations, if any, for modifying the findings of the study.

''(3) REGULATORY DETERMINATION.—

''(A) IN GENERAL.—Not later than 6 months after receiving the National Academy of Sciences report under paragraph (2), the Administrator shall determine, after informal public hearings and public notice and opportunity for comment, and based on information developed or accumulated in connection with the study required under paragraph (1) and the National Academy of Sciences report under paragraph (2), either—

''(i) that regulation of hydraulic fracturing under this part is necessary to ensure that underground sources of drinking water will not be endangered on a nationwide basis, or within a specific region, State or portions of a State; or

''(ii) that regulation described under clause (i) is unnecessary.

''(B) PUBLICATION OF DETERMINATION.—The Administrator shall publish the determination in the Federal Register, accompanied by an explanation and the reasons for it.

''(4) PROMULGATION OF REGULATIONS.—

''(A) REGULATION NECESSARY.—If the Administrator determines under paragraph (3) that regulation by hydraulic fracturing under this part is necessary to ensure that hydraulic fracturing does not endanger underground drinking water sources on a nationwide basis, or within a specific region, State or portions of a State, the Administrator shall, within 6 months after the issuance of that determination, and after public notice and opportunity for comment, promulgate regulations under section 1421 (42 U.S.C. 300h) to ensure that hydraulic fracturing will not endanger such underground sources of drinking water. However, for purposes of the Administrator's approval or disapproval under section 1422 of any State underground injection control program for regulating hydraulic fracturing, a State at any time may make the alternative demonstration provided for in section 1425 of this title.

''(B) REGULATION UNNECESSARY.—The Administrator shall not regulate or require States to regulate hydraulic fracturing under this part unless the Administrator determines under paragraph (3) that such regulation is necessary. This provision shall not apply to any State which has a program for the regulation of hydraulic fracturing that was approved by the Administrator under this part prior to the effective date of this subsection.

''(C) EXISTING REGULATIONS.—A determination by the Administrator under paragraph (3) that regulation is unnecessary will relieve all States (including those with existing approved programs for the regulation of hydraulic fracturing) from any further obligation to regulate hydraulic fracturing as an underground injection under this part.

''(5) DEFINITION OF HYDRAULIC FRACTURING.—For purposes of this subsection, the term 'hydraulic fracturing' means the process of creating a fracture in a reservoir rock, and injecting fluids and propping agents, for the purposes of reservoir stimulation related to oil and gas production activities.

''(6) SAVINGS.—Nothing in this subsection shall in any way limit the authorities of the Administrator under section 1431 (42 U.S.C. 300i).''.

**SEC. 611. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $100,000 for fiscal year 2003, to remain available until expended, for a grant to the State of Alabama to assist in the implementation of its regulatory program under section 1425 of the Safe Drinking Water Act.

**SEC. 612. PRESERVATION OF OIL AND GAS RESOURCE DATA.**

The Secretary of the Interior, through the United States Geological Survey, may enter into appropriate arrangements with State agencies that conduct geological survey activities to collect, archive, and provide public access to data and study results regarding oil and natural gas resources. The Secretary may accept private contributions of property and services for purposes of this section.

**SEC 613. RESOLUTION OF FEDERAL RESOURCE DEVELOPMENT CONFLICTS IN THE POWDER RIVER BASIN.**

The Secretary of the Interior shall undertake a review of existing authorities to resolve conflicts between the development of Federal coal and the development of Federal and non-Federal coalbed methane in the Powder River Basin in Wyoming and Montana. Not later than 90 days from enactment of this Act, the Secretary shall report to Congress on her plan to resolve these conflicts.

## TITLE VII—NATURAL GAS PIPELINES

### Subtitle A—Alaska Natural Gas Pipeline

**SEC. 701. SHORT TITLE.**

This subtitle may be cited as the ''Alaska Natural Gas Pipeline Act of 2002''.

**SEC. 702. FINDINGS.**

The Congress finds that:

(1) Construction of a natural gas pipeline system from the Alaskan North Slope to United States markets is in the national interest and will enhance national energy security by providing access to the significant gas reserves in Alaska needed to meet the anticipated demand for natural gas.

(2) The Commission issued a conditional certificate of public convenience and necessity for the Alaska Natural Gas Transportation System, which remains in effect.

**SEC. 703. PURPOSES.**

The purposes of this subtitle are—

(1) to provide a statutory framework for the expedited approval, construction, and initial operation of an Alaska natural gas transportation project, as an alternative to the framework provided in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o), which remains in effect;

(2) to establish a process for providing access to such transportation project in order to promote competition in the exploration, development and production of Alaska natural gas;

(3) to clarify Federal authorities under the Alaska Natural Gas Transportation Act; and

(4) to authorize Federal financial assistance to an Alaska natural gas transportation project as provided in this subtitle.

**SEC. 704. ISSUANCE OF CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

(a) AUTHORITY OF THE COMMISSION.—Notwithstanding the provisions of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o), the Commission may, pursuant to section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)), consider and act on an application for the issuance of a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project other than the Alaska Natural Gas Transportation System.

(b) ISSUANCE OF CERTIFICATE.—(1) The Commission shall issue a certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project under this section if the applicant has satisfied the requirements of section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e)).

(2) In considering an application under this section, the Commission shall presume that—

(A) a public need exists to construct and operate the proposed Alaska natural gas transportation project; and

(B) sufficient downstream capacity will exist to transport the Alaska natural gas moving through such project to markets in the contiguous United States.

(c) EXPEDITED APPROVAL PROCESS.—The Commission shall issue a final order granting or denying any application for a certificate of public convenience and necessity under section 7(c) of the Natural Gas Act (15 U.S.C. 717f(c)) and this section not more than 60 days after the issuance of the final environmental impact statement for that project pursuant to section 705.

(d) PROHIBITION ON CERTAIN PIPELINE ROUTE.—No license, permit, lease, right-of-way, authorization or other approval required under Federal law for the construction of any pipeline to transport natural gas from lands within the Prudhoe Bay oil and gas lease area may be granted for any pipeline that follows a route that traverses—

(1) the submerged lands (as defined by the Submerged Lands Act) beneath, or the adjacent shoreline of, the Beaufort Sea; and

(2) enters Canada at any point north of 68 degrees North latitude.

(e) OPEN SEASON.—Except where an expansion is ordered pursuant to section 706, initial or expansion capacity on any Alaska natural gas transportation project shall be allocated in accordance with procedures to be established by the Commission in regulations governing the conduct of open seasons for such project. Such procedures shall include the criteria for and timing of any open seasons, be consistent with the purposes set forth in section 703(2) and, for any open season for capacity beyond the initial capacity, provide the opportunity for the transportation of natural gas other than from the Prudhoe Bay and Point Thompson units. The Commission shall issue such regulations no later

*than 120 days after the enactment of this subtitle.*

*(f) PROJECTS IN THE CONTIGUOUS UNITED STATES.—Applications for additional or expanded pipeline facilities that may be required to transport Alaska natural gas from Canada to markets in the contiguous United States may be made pursuant to the Natural Gas Act. To the extent such pipeline facilities include the expansion of any facility constructed pursuant to the Alaska Natural Gas Transportation Act of 1976, the provisions of that Act shall continue to apply.*

*(g) STUDY OF IN-STATE NEEDS.—The holder of the certificate of public convenience and necessity issued, modified, or amended by the Commission for an Alaska natural gas transportation project shall demonstrate that it has conducted a study of Alaska in-State needs, including tie-in points along the Alaska natural gas transportation project for in-State access.*

*(h) ALASKA ROYALTY GAS.—The Commission, upon the request of the State of Alaska and after a hearing, may provide for reasonable access to the Alaska natural gas transportation project for the State of Alaska or its designee for the transportation of the State's royalty gas for local consumption needs within the State: Provided, That the rates of existing shippers of subscribed capacity on such project shall not be increased as a result of such access.*

*(i) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.*

***SEC. 705. ENVIRONMENTAL REVIEWS.***

*(a) COMPLIANCE WITH NEPA.—The issuance of a certificate of public convenience and necessity authorizing the construction and operation of any Alaska natural gas transportation project under section 704 shall be treated as a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).*

*(b) DESIGNATION OF LEAD AGENCY.—The Commission shall be the lead agency for purposes of complying with the National Environmental Policy Act of 1969, and shall be responsible for preparing the statement required by section 102(2)(c) of that Act (42 U.S.C. 4332(2)(c)) with respect to an Alaska natural gas transportation project under section 704. The Commission shall prepare a single environmental statement under this section, which shall consolidate the environmental reviews of all Federal agencies considering any aspect of the project.*

*(c) OTHER AGENCIES.—All Federal agencies considering aspects of the construction and operation of an Alaska natural gas transportation project under section 704 shall cooperate with the Commission, and shall comply with deadlines established by the Commission in the preparation of the statement under this section. The statement prepared under this section shall be used by all such agencies to satisfy their responsibilities under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with respect to such project.*

*(d) EXPEDITED PROCESS.—The Commission shall issue a draft statement under this section not later than 12 months after the Commission determines the application to be complete and shall issue the final statement not later than 6 months after the Commission issues the draft statement, unless the Commission for good cause finds that additional time is needed.*

***SEC. 706. PIPELINE EXPANSION.***

*(a) AUTHORITY.—With respect to any Alaska natural gas transportation project, upon the request of one or more persons and after giving notice and an opportunity for a hearing, the Commission may order the expansion of such project if it determines that such expansion is required by the present and future public convenience and necessity.*

*(b) REQUIREMENTS.—Before ordering an expansion the Commission shall—*

*(1) approve or establish rates for the expansion service that are designed to ensure the recovery, on an incremental or rolled-in basis, of the cost associated with the expansion (including a reasonable rate of return on investment);*

*(2) ensure that the rates as established do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers;*

*(3) find that the proposed shipper will comply with, and the proposed expansion and the expansion of service will be undertaken and implemented based on, terms and conditions consistent with the then-effective tariff of the Alaska natural gas transportation project;*

*(4) find that the proposed facilities will not adversely affect the financial or economic viability of the Alaska natural gas transportation project;*

*(5) find that the proposed facilities will not adversely affect the overall operations of the Alaska natural gas transportation project;*

*(6) find that the proposed facilities will not diminish the contract rights of existing shippers to previously subscribed certificated capacity;*

*(7) ensure that all necessary environmental reviews have been completed; and*

*(8) find that adequate downstream facilities exist or are expected to exist to deliver incremental Alaska natural gas to market.*

*(c) REQUIREMENT FOR A FIRM TRANSPORTATION AGREEMENT.—Any order of the Commission issued pursuant to this section shall be null and void unless the person or persons requesting the order executes a firm transportation agreement with the Alaska natural gas transportation project within a reasonable period of time as specified in such order.*

*(d) LIMITATION.—Nothing in this section shall be construed to expand or otherwise affect any authorities of the Commission with respect to any natural gas pipeline located outside the State of Alaska.*

*(e) REGULATIONS.—The Commission may issue regulations to carry out the provisions of this section.*

***SEC. 707. FEDERAL COORDINATOR.***

*(a) ESTABLISHMENT.—There is established as an independent establishment in the executive branch, the Office of the Federal Coordinator for Alaska Natural Gas Transportation Projects.*

*(b) THE FEDERAL COORDINATOR.—The Office shall be headed by a Federal Coordinator for Alaska Natural Gas Transportation Projects, who shall—*

*(1) be appointed by the President, by and with the advice of the Senate,*

*(2) hold office at the pleasure of the President, and*

*(3) be compensated at the rate prescribed for level III of the Executive Schedule (5 U.S.C. 5314).*

*(c) DUTIES.—The Federal Coordinator shall be responsible for—*

*(1) coordinating the expeditious discharge of all activities by Federal agencies with respect to an Alaska natural gas transportation project; and*

*(2) ensuring the compliance of Federal agencies with the provisions of this subtitle.*

*(d) REVIEWS AND ACTIONS OF OTHER FEDERAL AGENCIES.—(1) All reviews conducted and actions taken by any Federal officer or agency relating to an Alaska natural gas transportation project authorized under this section shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this subtitle.*

*(2) No Federal officer or agency shall have the authority to include terms and conditions that are permitted, but not required, by law on any certificate, right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that the terms and conditions would prevent or impair in any significant respect the expeditious construction and operation of the project.*

*(3) Unless required by law, no Federal officer or agency shall add to, amend, or abrogate any certificate, right-of-way, permit, lease or other authorization issued to an Alaska natural gas transportation project if the Federal Coordinator determines that such action would prevent or impair in any significant respect the expeditious construction and operation of the project.*

*(e) STATE COORDINATION.—The Federal Coordinator shall enter into a Joint Surveillance and Monitoring Agreement, approved by the President and the Governor of Alaska, with the State of Alaska similar to that in effect during construction of the Trans-Alaska Oil Pipeline to monitor the construction of the Alaska natural gas transportation project. The Federal Government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses Federal lands and private lands, and the State government shall have primary surveillance and monitoring responsibility where the Alaska natural gas transportation project crosses State lands.*

***SEC. 708. JUDICIAL REVIEW.***

*(a) EXCLUSIVE JURISDICTION.—The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine—*

*(1) the validity of any final order or action (including a failure to act) of any Federal agency or officer under this subtitle;*

*(2) the constitutionality of any provision of this subtitle, or any decision made or action taken thereunder; or*

*(3) the adequacy of any environmental impact statement prepared under the National Environmental Policy Act of 1969 with respect to any action under this subtitle.*

*(b) DEADLINE FOR FILING CLAIM.—Claims arising under this subtitle may be brought not later than 60 days after the date of the decision or action giving rise to the claim.*

*(c) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest as described in section 702 of this subtitle.*

*(d) AMENDMENT TO ANGTA.—Section 10(c) of the Alaska Gas Transportation Act of 1976 (15 U.S.C. 719h) is amended by adding the following paragraph:*

*''(2) EXPEDITED CONSIDERATION.—The United States Court of Appeals for the District of Columbia Circuit shall set any action brought under subsection (a) of this section for expedited consideration, taking into account the national interest described in section 2 of this Act.''.*

***SEC. 709. STATE JURISDICTION OVER IN-STATE DELIVERY OF NATURAL GAS.***

*(a) LOCAL DISTRIBUTION.—Any facility receiving natural gas from the Alaska natural gas transportation project for delivery to consumers within the State of Alaska shall be deemed to be a local distribution facility within the meaning of section 1(b) of the Natural Gas Act (15 U.S.C. 717), and therefore not subject to the jurisdiction of the Federal Energy Regulatory Commission.*

*(b) ADDITIONAL PIPELINES.—Nothing in this subtitle, except as provided in subsection 704(d), shall preclude or affect a future gas pipeline that may be constructed to deliver natural gas to Fairbanks, Anchorage, Matanuska-Susitna Valley, or the Kenai peninsula or Valdez or any other site in the State of Alaska for consumption within or distribution outside the State of Alaska.*

*(c) RATE COORDINATION.—Pursuant to the Natural Gas Act, the Commission shall establish rates for the transportation of natural gas on the Alaska natural gas transportation project. In exercising such authority, the Commission, pursuant to Section 17(b) of the Natural Gas Act (15 U.S.C. 717p), shall confer with the State of*

*Alaska regarding rates (including rate settlements) applicable to natural gas transported on and delivered from the Alaska natural gas transportation project for use within the State of Alaska.*

***SEC. 710. LOAN GUARANTEE.***

*(a) AUTHORITY.—The Secretary of Energy may guarantee not more than 80 percent of the principal of any loan made to the holder of a certificate of public convenience and necessity issued under section 704(b) of this Act or section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) for the purpose of constructing an Alaska natural gas transportation project.*

*(b) CONDITIONS.—(1) The Secretary of Energy may not guarantee a loan under this section unless the guarantee has filed an application for a certificate of public convenience and necessity under section 704(b) of this Act or for an amended certificate under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) with the Commission not later than 18 months after the date of enactment of this subtitle.*

*(2) A loan guaranteed under this section shall be made by a financial institution subject to the examination of the Secretary.*

*(3) Loan requirements, including term, maximum size, collateral requirements and other features shall be determined by the Secretary.*

*(c) LIMITATION ON AMOUNT.—Commitments to guarantee loans may be made by the Secretary of Energy only to the extent that the total loan principal, any part of which is guaranteed, will not exceed $10,000,000,000.*

*(d) REGULATIONS.—The Secretary of Energy may issue regulations to carry out the provisions of this section.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to cover the cost of loan guarantees, as defined by section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).*

***SEC. 711. STUDY OF ALTERNATIVE MEANS OF CONSTRUCTION.***

*(a) REQUIREMENT OF STUDY.—If no application for the issuance of a certificate or amended certificate of public convenience and necessity authorizing the construction and operation of an Alaska natural gas transportation project has been filed with the Commission within 18 months after the date of enactment of this title, the Secretary of Energy shall conduct a study of alternative approaches to the construction and operation of the project.*

*(b) SCOPE OF STUDY.—The study shall consider the feasibility of establishing a Government corporation to construct an Alaska natural gas transportation project, and alternative means of providing Federal financing and ownership (including alternative combinations of Government and private corporate ownership) of the project.*

*(c) CONSULTATION.—In conducting the study, the Secretary of Energy shall consult with the Secretary of the Treasury and the Secretary of the Army (acting through the Commanding General of the Corps of Engineers).*

*(d) REPORT.—If the Secretary of Energy is required to conduct a study under subsection (a), he shall submit a report containing the results of the study, his recommendations, and any proposals for legislation to implement his recommendations to the Congress within 6 months after the expiration of the Secretary of Energy's authority to guarantee a loan under section 710.*

***SEC. 712. CLARIFICATION OF ANGTA STATUS AND AUTHORITIES.***

*(a) SAVINGS CLAUSE.—Nothing in this subtitle affects any decision, certificate, permit, right-of-way, lease, or other authorization issued under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) or any Presidential findings or waivers issued in accordance with that Act.*

*(b) CLARIFICATION OF AUTHORITY TO AMEND TERMS AND CONDITIONS TO MEET CURRENT PROJECT REQUIREMENTS.—Any Federal officer or agency responsible for granting or issuing any certificate, permit, right-of-way, lease, or other authorization under section 9 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719g) may add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization to meet current project requirements (including the physical design, facilities, and tariff specifications), so long as such action does not compel a change in the basic nature and general route of the Alaska Natural Gas Transportation System as designated and described in section 2 of the President's Decision, or would otherwise prevent or impair in any significant respect the expeditious construction and initial operation of such transportation system.*

*(c) UPDATED ENVIRONMENTAL REVIEWS.—The Secretary of Energy shall require the sponsor of the Alaska Natural Gas Transportation System to submit such updated environmental data, reports, permits, and impact analyses as the Secretary determines are necessary to develop detailed terms, conditions, and compliance plans required by section 5 of the President's Decision.*

***SEC. 713. DEFINITIONS.***

*For purposes of this subtitle:*

*(1) The term ''Alaska natural gas'' means natural gas derived from the area of the State of Alaska lying north of 64 degrees North latitude.*

*(2) The term ''Alaska natural gas transportation project'' means any natural gas pipeline system that carries Alaska natural gas to the border between Alaska and Canada (including related facilities subject to the jurisdiction of the Commission) that is authorized under either—*

*(A) the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719–719o); or*

*(B) section 704 of this subtitle.*

*(3) The term ''Alaska Natural Gas Transportation System'' means the Alaska natural gas transportation project authorized under the Alaska Natural Gas Transportation Act of 1976 and designated and described in section 2 of the President's Decision.*

*(4) The term ''Commission'' means the Federal Energy Regulatory Commission.*

*(5) The term ''President's Decision'' means the Decision and Report to Congress on the Alaska Natural Gas Transportation system issued by the President on September 22, 1977 pursuant to section 7 of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719c) and approved by Public Law 95–158.*

***SEC. 714. SENSE OF THE SENATE.***

*It is the sense of the Senate that an Alaska natural gas transportation project will provide significant economic benefits to the United States and Canada. In order to maximize those benefits, the Senate urges the sponsors of the pipeline project to make every effort to use steel that is manufactured or produced in North America and to negotiate a project labor agreement to expedite construction of the pipeline.*

***SEC. 715. ALASKAN PIPELINE CONSTRUCTION TRAINING PROGRAM.***

*(a) Within six months after enactment of this Act, the Secretary of Labor (in this section referred to as the ''Secretary'') shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Resources of the United States House of Representatives setting forth a program to train Alaska residents in the skills and crafts required in the design, construction, and operation of an Alaska gas pipeline system and that will enhance employment and contracting opportunities for Alaskan residents. The report shall also describe any laws, rules, regulations and policies which act as a deterrent to hiring Alaskan residents or contracting with Alaskan residents to perform work on Alaska gas pipelines, together with any recommendations for change. For purposes of this subsection, Alaskan residents shall be defined as those individuals eligible to vote within the State of Alaska on the date of enactment of this Act.*

*(b) Within 1 year of the date the report is transmitted to Congress, the Secretary shall establish within the State of Alaska, at such locations as are appropriate, one or more training centers for the express purpose of training Alaskan residents in the skills and crafts necessary in the design, construction and operation of gas pipelines in Alaska. Each such training center shall also train Alaskan residents in the skills required to write, offer, and monitor contracts in support of the design, construction, and operation of Alaska gas pipelines.*

*(c) In implementing the report and program described in this subsection, the Secretary shall consult with the Alaskan Governor.*

*(d) There are authorized to be appropriated to the Secretary such sums as may be necessary, but not to exceed $20,000,000 for the purposes of this subsection.*

***Subtitle B—Operating Pipelines***

***SEC. 721. ENVIRONMENTAL REVIEW AND PERMITTING OF NATURAL GAS PIPELINE PROJECTS.***

*(a) INTERAGENCY REVIEW.—The Chairman of the Council on Environmental Quality, in coordination with the Federal Energy Regulatory Commission, shall establish an interagency task force to develop an interagency memorandum of understanding to expedite the environmental review and permitting of natural gas pipeline projects.*

*(b) MEMBERSHIP OF INTERAGENCY TASK FORCE.—The task force shall consist of—*

*(1) the Chairman of the Council on Environmental Quality, who shall serve as the Chairman of the interagency task force,*

*(2) the Chairman of the Federal Energy Regulatory Commission,*

*(3) the Director of the Bureau of Land Management,*

*(4) the Director of the United States Fish and Wildlife Service,*

*(5) the Commanding General, United States Army Corps of Engineers,*

*(6) the Chief of the Forest Service,*

*(7) the Administrator of the Environmental Protection Agency,*

*(8) the Chairman of the Advisory Council on Historic Preservation, and*

*(9) the heads of such other agencies as the Chairman of the Council on Environmental Quality and the Chairman of the Federal Energy Regulatory Commission deem appropriate.*

*(c) MEMORANDUM OF UNDERSTANDING.—The agencies represented by the members of the interagency task force shall enter into the memorandum of understanding not later than 1 year after the date of the enactment of this section.*

***Subtitle C—Pipeline Safety***

***PART I—SHORT TITLE; AMENDMENT OF TITLE 49***

***SEC. 741. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.***

*(a) SHORT TITLE.—This subtitle may be cited as the ''Pipeline Safety Improvement Act of 2002''.*

*(b) AMENDMENT OF TITLE 49, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.*

***PART II—PIPELINE SAFETY IMPROVEMENT ACT OF 2002***

***SEC. 761. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.***

*(a) IN GENERAL.—Except as otherwise required by this subtitle, the Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT–2000–069).*

*(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.*

*(c) REPORTS BY THE INSPECTOR GENERAL.—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.*

***SEC. 762. NTSB SAFETY RECOMMENDATIONS.***

*(a) IN GENERAL.—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.*

*(b) PUBLIC AVAILABILITY.—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in sections 1135 (a) and (b) of title 49, United States Code, available to the public at reasonable cost.*

*(c) REPORTS TO CONGRESS.—The Secretary, Administrator, or Director, respectively, shall submit to the Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.*

***SEC. 763. QUALIFICATIONS OF PIPELINE PERSONNEL.***

*(a) QUALIFICATION PLAN.—Each pipeline operator shall make available to the Secretary of Transportation, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, a plan that is designed to enhance the qualifications of pipeline personnel and to reduce the likelihood of accidents and injuries. The plan shall be made available not more than 6 months after the date of enactment of this Act, and the operator shall revise or update the plan as appropriate.*

*(b) REQUIREMENTS.—The enhanced qualification plan shall include, at a minimum, criteria to demonstrate the ability of an individual to safely and properly perform tasks identified under section 60102 of title 49, United States Code. The plan shall also provide for training and periodic reexamination of pipeline personnel qualifications and provide for requalification as appropriate. The Secretary, or, in the case of an intrastate pipeline facility operator, the appropriate State regulatory agency, may review and certify the plans to determine if they are sufficient to provide a safe operating environment and shall periodically review the plans to ensure the continuation of a safe operation. The Secretary may establish minimum standards for pipeline personnel training and evaluation, which may include written examination, oral examination, work performance history review, observation during performance on the job, on the job training, simulations, or other forms of assessment.*

*(c) REPORT TO CONGRESS.—*

*(1) IN GENERAL.—The Secretary shall submit a report to the Congress evaluating the effectiveness of operator qualification and training efforts, including—*

*(A) actions taken by inspectors;*

*(B) recommendations made by inspectors for changes to operator qualification and training programs; and*

*(C) industry and employee organization responses to those actions and recommendations.*

*(2) CRITERIA.—The Secretary may establish criteria for use in evaluating and reporting on operator qualification and training for purposes of this subsection.*

*(3) DUE DATE.—The Secretary shall submit the report required by paragraph (1) to the Congress 3 years after the date of enactment of this Act.*

***SEC. 764. PIPELINE INTEGRITY INSPECTION PROGRAM.***

*Section 60109 is amended by adding at the end the following:*

*''(c) INTEGRITY MANAGEMENT.—*

*''(1) GENERAL REQUIREMENT.—The Secretary shall promulgate regulations requiring operators of hazardous liquid pipelines and natural gas transmission pipelines to evaluate the risks to the operator's pipeline facilities in areas identified pursuant to subsection (a)(1), and to adopt and implement a program for integrity management that reduces the risk of an incident in those areas. The regulations shall be issued no later than 1 year after the Secretary has issued standards pursuant to subsections (a) and (b) of this section or by December 31, 2003, whichever is sooner.*

*''(2) STANDARDS FOR PROGRAM.—In promulgating regulations under this section, the Secretary shall require an operator's integrity management plan to be based on risk analysis and each plan shall include, at a minimum—*

*''(A) periodic assessment of the integrity of the pipeline through methods including internal inspection, pressure testing, direct assessment, or other effective methods. The assessment period shall be no less than every 5 years unless the Department of Transportation Inspector General, after consultation with the Secretary determines there is not a sufficient capability or it is deemed unnecessary because of more technically appropriate monitoring or creates undue interruption of necessary supply to fulfill the requirements under this paragraph;*

*''(B) clearly defined criteria for evaluating the results of the periodic assessment methods carried out under subparagraph (A) and procedures to ensure identified problems are corrected in a timely manner; and*

*''(C) measures, as appropriate, that prevent and mitigate unintended releases, such as leak detection, integrity evaluation, restrictive flow devices, or other measures.*

*''(3) CRITERIA FOR PROGRAM STANDARDS.—In deciding how frequently the integrity assessment methods carried out under paragraph (2)(A) must be conducted, an operator shall take into account the potential for new defects developing or previously identified structural defects caused by construction or installation, the operational characteristics of the pipeline, and leak history. In addition, the Secretary may establish a minimum testing requirement for operators of pipelines to conduct internal inspections.*

*''(4) STATE ROLE.—A State authority that has an agreement in effect with the Secretary under section 60106 is authorized to review and assess an operator's risk analyses and integrity management plans required under this section for interstate pipelines located in that State. The reviewing State authority shall provide the Secretary with a written assessment of the plans, make recommendations, as appropriate, to address safety concerns not adequately addressed in the operator's plans, and submit documentation explaining the State-proposed plan revisions. The Secretary shall carefully consider the State's proposals and work in consultation with the States and operators to address safety concerns.*

*''(5) MONITORING IMPLEMENTATION.—The Secretary of Transportation shall review the risk analysis and program for integrity management required under this section and provide for continued monitoring of such plans. Not later than 2 years after the implementation of integrity management plans under this section, the Secretary shall complete an assessment and evaluation of the effects on safety and the environment of extending all of the requirements mandated by the regulations described in paragraph (1) to additional areas. The Secretary shall submit the assessment and evaluation to Congress along with any recommendations to improve and expand the utilization of integrity management plans.*

*''(6) OPPORTUNITY FOR LOCAL INPUT ON INTEGRITY MANAGEMENT.—Within 18 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, the Secretary shall, by regulation, establish a process for raising and addressing local safety concerns about pipeline integrity and the operator's pipeline integrity plan. The process shall include—*

*''(A) a requirement that an operator of a hazardous liquid or natural gas transmission pipeline facility provide information about the risk analysis and integrity management plan required under this section to local officials in a State in which the facility is located;*

*''(B) a description of the local officials required to be informed, the information that is to be provided to them and the manner, which may include traditional or electronic means, in which it is provided;*

*''(C) the means for receiving input from the local officials that may include a public forum sponsored by the Secretary or by the State, or the submission of written comments through traditional or electronic means;*

*''(D) the extent to which an operator of a pipeline facility must participate in a public forum sponsored by the Secretary or in another means for receiving input from the local officials or in the evaluation of that input; and*

*''(E) the manner in which the Secretary will notify the local officials about how their concerns are being addressed.''.*

***SEC. 765. ENFORCEMENT.***

*(a) IN GENERAL.—Section 60112 is amended—*

*(1) by striking subsection (a) and inserting the following:*

*''(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide a pipeline facility is hazardous if the Secretary decides that—*

*''(1) operation of the facility is or would be hazardous to life, property, or the environment; or*

*''(2) the facility is, or would be, constructed or operated, or a component of the facility is, or would be, constructed or operated with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.''; and*

*(2) by striking ''is hazardous,'' in subsection (d) and inserting ''is, or would be, hazardous,''.*

***SEC. 766. PUBLIC EDUCATION, EMERGENCY PREPAREDNESS, AND COMMUNITY RIGHT-TO-KNOW.***

*(a) Section 60116 is amended to read as follows:*

***''§ 60116. Public education, emergency preparedness, and community right-to-know***

*''(a) PUBLIC EDUCATION PROGRAMS.—(1) Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.*

*''(2) Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an*

*intrastate pipeline facility operator, the appropriate State agency and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency.*

*''(3) The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.*

*''(b) EMERGENCY PREPAREDNESS.—*

*''(1) OPERATOR LIAISON.—Within 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, an operator of a gas transmission or hazardous liquid pipeline facility shall initiate and maintain liaison with the State emergency response commissions, and local emergency planning committees in the areas of pipeline right-of-way, established under section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001) in each State in which it operates.*

*''(2) INFORMATION.—An operator shall, upon request, make available to the State emergency response commissions and local emergency planning committees, and shall make available to the Office of Pipeline Safety in a standardized form for the purpose of providing the information to the public, the information described in section 60102(d), the operator's program for integrity management, and information about implementation of that program. The information about the facility shall also include, at a minimum—*

*''(A) the business name, address, telephone number of the operator, including a 24-hour emergency contact number;*

*''(B) a description of the facility, including pipe diameter, the product or products carried, and the operating pressure;*

*''(C) with respect to transmission pipeline facilities, maps showing the location of the facility and, when available, any high consequence areas which the pipeline facility traverses or adjoins and abuts;*

*''(D) a summary description of the integrity measures the operator uses to assure safety and protection for the environment; and*

*''(E) a point of contact to respond to questions from emergency response representative.*

*''(3) SMALLER COMMUNITIES.—In a community without a local emergency planning committee, the operator shall maintain liaison with the local fire, police, and other emergency response agencies.*

*''(4) PUBLIC ACCESS.—The Secretary shall prescribe requirements for public access, as appropriate, to this information, including a requirement that the information be made available to the public by widely accessible computerized database.*

*''(c) COMMUNITY RIGHT-TO-KNOW.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, and annually thereafter, the owner or operator of each gas transmission or hazardous liquid pipeline facility shall provide to the governing body of each municipality in which the pipeline facility is located, a map identifying the location of such facility. The map may be provided in electronic form. The Secretary may provide technical assistance to the pipeline industry on developing public safety and public education program content and best practices for program delivery, and on evaluating the effectiveness of the programs. The Secretary may also provide technical assistance to State and local officials in applying practices developed in these programs to their activities to promote pipeline safety.*

*''(d) PUBLIC AVAILABILITY OF REPORTS.—The Secretary shall—*

*''(1) make available to the public—*

*''(A) a safety-related condition report filed by an operator under section 60102(h);*

*''(B) a report of a pipeline incident filed by an operator;*

*''(C) the results of any inspection by the Office of Pipeline Safety or a State regulatory official; and*

*''(D) a description of any corrective action taken in response to a safety-related condition reported under subparagraph (A), (B), or (C); and*

*''(2) prescribe requirements for public access, as appropriate, to integrity management program information prepared under this chapter, including requirements that will ensure data accessibility to the greatest extent feasible.''.*

*(b) SAFETY CONDITION REPORTS.—Section 60102(h)(2) is amended by striking ''authorities.'' and inserting ''officials, including the local emergency responders.''.*

*(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by striking the item relating to section 60116 and inserting the following:*

*''60116. Public education, emergency preparedness, community right-to-know.''.*

***SEC. 767. PENALTIES.***

*(a) CIVIL PENALTIES.—Section 60122 is amended—*

*(1) by striking ''$25,000'' in subsection (a)(1) and inserting ''$500,000'';*

*(2) by striking ''$500,000'' in subsection (a)(1) and inserting ''$1,000,000'';*

*(3) by adding at the end of subsection (a)(1) the following: ''The preceding sentence does not apply to judicial enforcement action under section 60120 or 60121.''; and*

*(4) by striking subsection (b) and inserting the following:*

*''(b) PENALTY CONSIDERATIONS.—In determining the amount of a civil penalty under this section—*

*''(1) the Secretary shall consider—*

*''(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;*

*''(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, any effect on ability to continue doing business; and*

*''(C) good faith in attempting to comply; and*

*''(2) the Secretary may consider—*

*''(A) the economic benefit gained from the violation without any discount because of subsequent damages; and*

*''(B) other matters that justice requires.''.*

*(b) EXCAVATOR DAMAGE.—Section 60123(d) is amended—*

*(1) by striking ''knowingly and willfully'';*

*(2) by inserting ''knowingly and willfully'' before ''engages'' in paragraph (1); and*

*(3) striking paragraph (2)(B) and inserting the following:*

*''(B) a pipeline facility, is aware of damage, and does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or''.*

*(c) CIVIL ACTIONS.—Section 60120(a)(1) is amended to read as follows:*

*''(1) On the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112 of this chapter, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same factors as prescribed for the Secretary in an administrative case under section 60122.''.*

***SEC. 768. STATE OVERSIGHT ROLE.***

*(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—*

*(1) by striking ''GENERAL AUTHORITY.—'' in subsection (a) and inserting ''AGREEMENTS WITHOUT CERTIFICATION.—'';*

*(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e); and*

*(3) by inserting after subsection (a) the following:*

*''(b) AGREEMENTS WITH CERTIFICATION.—*

*''(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 of this title and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards prescribed under this chapter to a State authority.*

*''(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines that—*

*''(A) the agreement allowing participation of the State authority is consistent with the Secretary's program for inspection and consistent with the safety policies and provisions provided under this chapter;*

*''(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;*

*''(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;*

*''(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and*

*''(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.*

*''(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—*

*''(A) the State authority fails to comply with the terms of the agreement;*

*''(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or*

*''(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.''.*

*(b) ENDING AGREEMENTS.—Subsection (e) of section 60106, as redesignated by subsection (a), is amended to read as follows:*

*''(e) ENDING AGREEMENTS.—*

*''(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.*

*''(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—*

*''(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;*

*''(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or*

*''(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.*

*''(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give the notice and an opportunity*

*for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.''.*

***SEC. 769. IMPROVED DATA AND DATA AVAILABILITY.***

*(a) IN GENERAL.—Within 12 months after the date of enactment of this Act, the Secretary shall develop and implement a comprehensive plan for the collection and use of gas and hazardous liquid pipeline data to revise the causal categories on the incident report forms to eliminate overlapping and confusing categories and include subcategories. The plan shall include components to provide the capability to perform sound incident trend analysis and evaluations of pipeline operator performance using normalized accident data.*

*(b) REPORT OF RELEASES EXCEEDING 5 GALLONS.—Section 60117(b) is amended—*

*(1) by inserting ''(1)'' before ''To'';*

*(2) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B);*

*(3) inserting before the last sentence the following:*

*''(2) A person owning or operating a hazardous liquid pipeline facility shall report to the Secretary each release to the environment greater than 5 gallons of the hazardous liquid or carbon dioxide transported. This section applies to releases from pipeline facilities regulated under this chapter. A report must include the location of the release, fatalities and personal injuries, type of product, amount of product release, cause or causes of the release, extent of damage to property and the environment, and the response undertaken to clean up the release.*

*''(3) During the course of an incident investigation, a person owning or operating a pipeline facility shall make records, reports, and information required under subsection (a) of this section or other reasonably described records, reports, and information relevant to the incident investigation, available to the Secretary within the time limits prescribed in a written request.''; and*

*(4) indenting the first word of the last sentence and inserting ''(4)'' before ''The Secretary'' in that sentence.*

*(c) PENALTY AUTHORITIES.—(1) Section 60122(a) is amended by striking ''60114(c)'' and inserting ''60117(b)(3)''.*

*(2) Section 60123(a) is amended by striking ''60114(c),'' and inserting ''60117(b)(3),''.*

*(d) ESTABLISHMENT OF NATIONAL DEPOSITORY.—Section 60117 is amended by adding at the end the following:*

*''(l) NATIONAL DEPOSITORY.—The Secretary shall establish a national depository of data on events and conditions, including spill histories and corrective actions for specific incidents, that can be used to evaluate the risk of, and to prevent, pipeline failures and releases. The Secretary shall administer the program through the Bureau of Transportation Statistics, in cooperation with the Research and Special Programs Administration, and shall make such information available for use by State and local planning and emergency response authorities and the public.''.*

***SEC. 770. RESEARCH AND DEVELOPMENT.***

*(a) INNOVATIVE TECHNOLOGY DEVELOPMENT.—*

*(1) IN GENERAL.—As part of the Department of Transportation's research and development program, the Secretary of Transportation shall direct research attention to the development of alternative technologies—*

*(A) to expand the capabilities of internal inspection devices to identify and accurately measure defects and anomalies;*

*(B) to inspect pipelines that cannot accommodate internal inspection devices available on the date of enactment;*

*(C) to develop innovative techniques measuring the structural integrity of pipelines;*

*(D) to improve the capability, reliability, and practicality of external leak detection devices; and*

*(E) to develop and improve alternative technologies to identify and monitor outside force damage to pipelines.*

*(2) COOPERATIVE.—The Secretary may participate in additional technological development through cooperative agreements with trade associations, academic institutions, or other qualified organizations.*

*(b) PIPELINE SAFETY AND RELIABILITY RESEARCH AND DEVELOPMENT.—*

*(1) IN GENERAL.—The Secretary of Transportation, in coordination with the Secretary of Energy, shall develop and implement an accelerated cooperative program of research and development to ensure the integrity of natural gas and hazardous liquid pipelines. This research and development program—*

*(A) shall include materials inspection techniques, risk assessment methodology, and information systems surety; and*

*(B) shall complement, and not replace, the research program of the Department of Energy addressing natural gas pipeline issues existing on the date of enactment of this Act.*

*(2) PURPOSE.—The purpose of the cooperative research program shall be to promote pipeline safety research and development to—*

*(A) ensure long-term safety, reliability and service life for existing pipelines;*

*(B) expand capabilities of internal inspection devices to identify and accurately measure defects and anomalies;*

*(C) develop inspection techniques for pipelines that cannot accommodate the internal inspection devices available on the date of enactment;*

*(D) develop innovative techniques to measure the structural integrity of pipelines to prevent pipeline failures;*

*(E) develop improved materials and coatings for use in pipelines;*

*(F) improve the capability, reliability, and practicality of external leak detection devices;*

*(G) identify underground environments that might lead to shortened service life;*

*(H) enhance safety in pipeline siting and land use;*

*(I) minimize the environmental impact of pipelines;*

*(J) demonstrate technologies that improve pipeline safety, reliability, and integrity;*

*(K) provide risk assessment tools for optimizing risk mitigation strategies; and*

*(L) provide highly secure information systems for controlling the operation of pipelines.*

*(3) AREAS.—In carrying out this subsection, the Secretary of Transportation, in coordination with the Secretary of Energy, shall consider research and development on natural gas, crude oil and petroleum product pipelines for—*

*(A) early crack, defect, and damage detection, including real-time damage monitoring;*

*(B) automated internal pipeline inspection sensor systems;*

*(C) land use guidance and set back management along pipeline rights-of-way for communities;*

*(D) internal corrosion control;*

*(E) corrosion-resistant coatings;*

*(F) improved cathodic protection;*

*(G) inspection techniques where internal inspection is not feasible, including measurement of structural integrity;*

*(H) external leak detection, including portable real-time video imaging technology, and the advancement of computerized control center leak detection systems utilizing real-time remote field data input;*

*(I) longer life, high strength, non-corrosive pipeline materials;*

*(J) assessing the remaining strength of existing pipes;*

*(K) risk and reliability analysis models, to be used to identify safety improvements that could be realized in the near term resulting from analysis of data obtained from a pipeline performance tracking initiative;*

*(L) identification, monitoring, and prevention of outside force damage, including satellite surveillance; and*

*(M) any other areas necessary to ensuring the public safety and protecting the environment.*

*(4) POINTS OF CONTACT.—*

*(A) IN GENERAL.—To coordinate and implement the research and development programs and activities authorized under this subsection—*

*(i) the Secretary of Transportation shall designate, as the point of contact for the Department of Transportation, an officer of the Department of Transportation who has been appointed by the President and confirmed by the Senate; and*

*(ii) the Secretary of Energy shall designate, as the point of contact for the Department of Energy, an officer of the Department of Energy who has been appointed by the President and confirmed by the Senate.*

*(B) DUTIES.—*

*(i) The point of contact for the Department of Transportation shall have the primary responsibility for coordinating and overseeing the implementation of the research, development, and demonstration program plan under paragraphs (5) and (6).*

*(ii) The points of contact shall jointly assist in arranging cooperative agreements for research, development and demonstration involving their respective Departments, national laboratories, universities, and industry research organizations.*

*(5) RESEARCH AND DEVELOPMENT PROGRAM PLAN.—Within 240 days after the date of enactment of this Act, the Secretary of Transportation, in coordination with the Secretary of Energy and the Pipeline Integrity Technical Advisory Committee, shall prepare and submit to the Congress a 5-year program plan to guide activities under this subsection. In preparing the program plan, the Secretary shall consult with appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries to select and prioritize appropriate project proposals. The Secretary may also seek the advice of utilities, manufacturers, institutions of higher learning, Federal agencies, the pipeline research institutions, national laboratories, State pipeline safety officials, environmental organizations, pipeline safety advocates, and professional and technical societies.*

*(6) IMPLEMENTATION.—The Secretary of Transportation shall have primary responsibility for ensuring the 5-year plan provided for in paragraph (5) is implemented as intended. In carrying out the research, development, and demonstration activities under this paragraph, the Secretary of Transportation and the Secretary of Energy may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.), grants, joint ventures, other transactions, and any other form of agreement available to the Secretary consistent with the recommendations of the Advisory Committee.*

*(7) REPORTS TO CONGRESS.—The Secretary of Transportation shall report to the Congress annually as to the status and results to date of the implementation of the research and development program plan. The report shall include the activities of the Departments of Transportation and Energy, the national laboratories, universities, and any other research organizations, including industry research organizations.*

***SEC. 771. PIPELINE INTEGRITY TECHNICAL ADVISORY COMMITTEE.***

*(a) ESTABLISHMENT.—The Secretary of Transportation shall enter into appropriate arrangements with the National Academy of Sciences to establish and manage the Pipeline Integrity*

*Technical Advisory Committee for the purpose of advising the Secretary of Transportation and the Secretary of Energy on the development and implementation of the 5-year research, development, and demonstration program plan under section 770(b)(5). The Advisory Committee shall have an ongoing role in evaluating the progress and results of the research, development, and demonstration carried out under that section.*

*(b) MEMBERSHIP.—The National Academy of Sciences shall appoint the members of the Pipeline Integrity Technical Advisory Committee after consultation with the Secretary of Transportation and the Secretary of Energy. Members appointed to the Advisory Committee should have the necessary qualifications to provide technical contributions to the purposes of the Advisory Committee.*

***SEC. 772. AUTHORIZATION OF APPROPRIATIONS.***

*(a) GAS AND HAZARDOUS LIQUIDS.—Section 60125(a) is amended to read as follows:*

*''(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter and other pipeline-related damage prevention activities of this title (except for section 60107), there are authorized to be appropriated to the Department of Transportation—$30,000,000 for each of the fiscal years 2003, 2004, and 2005 of which $23,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title.''.*

*(b) GRANTS TO STATES.—Section 60125(c) is amended to read as follows:*

*''(c) STATE GRANTS.—Not more than the following amounts may be appropriated to the Secretary to carry out section 60107—$20,000,000 for the fiscal years 2003, 2004, and 2005 of which $18,000,000 is to be derived from user fees for fiscal years 2003, 2004, and 2005 collected under section 60301 of this title.''.*

*(c) OIL SPILLS.—Section 60125 is amended by redesignating subsections (d), (e), and (f) as subsections (e), (f), (g) and inserting after subsection (c) the following:*

*''(d) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, $8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this title for each of fiscal years 2003, 2004, and 2005.''.*

*(d) PIPELINE INTEGRITY PROGRAM.—(1) There are authorized to be appropriated to the Secretary of Transportation for carrying out sections 770(b) and 771 of this subtitle $3,000,000, to be derived from user fees under section 60301 of title 49, United States Code, for each of the fiscal years 2003 through 2007.*

*(2) Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), $3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention and mitigation of oil spills under sections 770(b) and 771 of this subtitle for each of the fiscal years 2003 through 2007.*

*(3) There are authorized to be appropriated to the Secretary of Energy for carrying out sections 770(b) and 771 of this subtitle such sums as may be necessary for each of the fiscal years 2003 through 2007.*

***SEC. 773. OPERATOR ASSISTANCE IN INVESTIGATIONS.***

*(a) IN GENERAL.—If the Department of Transportation or the National Transportation Safety Board investigate an accident, the operator involved shall make available to the representative of the Department or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.*

*(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—*

*(1) by inserting ''(1)'' after ''CORRECTIVE ACTION ORDERS.—''; and*

*(2) by adding at the end the following:*

*''(2) If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—*

*''(A) the Secretary determines, after notice and an opportunity for a hearing, that the employee's performance of duty in carrying out the activity did not contribute substantially to the cause of the accident; or*

*''(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 763 of the Pipeline Safety Improvement Act of 2002 and can safely perform those activities.*

*''(3) Action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement to the extent it is not inconsistent with the requirements of this section.''.*

***SEC. 774. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.***

*(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:*

***''§ 60129. Protection of employees providing pipeline safety information***

*''(a) DISCRIMINATION AGAINST PIPELINE EMPLOYEES.—No pipeline operator or contractor or subcontractor of a pipeline may discharge an employee or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—*

*''(1) provided, caused to be provided, or is about to provide (with any knowledge of the employer) or cause to be provided to the employer or Federal Government information relating to any violation or alleged violation of any order, regulation, or standard of the Research and Special Programs Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;*

*''(2) has filed, caused to be filed, or is about to file (with any knowledge of the employer) or cause to be filed a proceeding relating to any violation or alleged violation of any order, regulation, or standard of the Administration or any other provision of Federal law relating to pipeline safety under this chapter or any other law of the United States;*

*''(3) testified or is about to testify in such a proceeding; or*

*''(4) assisted or participated or is about to assist or participate in such a proceeding.*

*''(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—*

*''(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 90 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person named in the complaint and the Administrator of the Research and Special Programs Administration of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person under paragraph (2).*

*''(2) INVESTIGATION; PRELIMINARY ORDER.—*

*''(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person alleged to have committed a violation of subsection (a) of the Secretary's findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary shall accompany the Secretary's findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 30 days after the date of notification of findings under this paragraph, either the person alleged to have committed the violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 30-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.*

*''(B) REQUIREMENTS.—*

*''(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.*

*''(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.*

*''(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in paragraphs (1) through (4) of subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.*

*''(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.*

*''(3) FINAL ORDER.—*

*''(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 120 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person alleged to have committed the violation.*

*''(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person who committed such violation to—*

*''(i) take affirmative action to abate the violation;*

*''(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and*

''(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

''(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor may award to the prevailing employer a reasonable attorney's fee not exceeding $1,000.

''(4) REVIEW.—

''(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

''(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

''(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

''(6) ENFORCEMENT OF ORDER BY PARTIES.—

''(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

''(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award costs is appropriate.

''(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

''(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an employee of a pipeline, contractor or subcontractor who, acting without direction from the pipeline contractor or subcontractor (or such person's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.

''(e) CONTRACTOR DEFINED.—In this section, the term 'contractor' means a company that performs safety-sensitive functions by contract for a pipeline.''.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

''(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more than $1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.''.

(c) CONFORMING AMENDMENT.—The chapter analysis for chapter 601 is amended by adding at the end the following:

''60129. Protection of employees providing pipeline safety information.''.

**SEC. 775. STATE PIPELINE SAFETY ADVISORY COMMITTEES.**

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

**SEC. 776. FINES AND PENALTIES.**

The Inspector General of the Department of Transportation shall conduct an analysis of the Department's assessment of fines and penalties on gas transmission and hazardous liquid pipelines, including the cost of corrective actions required by the Department in lieu of fines, and, no later than 6 months after the date of enactment of this Act, shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure on any findings and recommendations for actions by the Secretary or Congress to ensure the fines assessed are an effective deterrent for reducing safety risks.

**SEC. 777. STUDY OF RIGHTS-OF-WAY.**

The Secretary of Transportation is authorized to conduct a study on how best to preserve environmental resources in conjunction with maintaining pipeline rights-of-way. The study shall recognize pipeline operators' regulatory obligations to maintain rights-of-way and to protect public safety.

**SEC. 778. STUDY OF NATURAL GAS RESERVE.**

(a) FINDINGS.—Congress finds that:

(1) In the last few months, natural gas prices across the country have tripled.

(2) In California, natural gas prices have increased twenty-fold, from $3 per million British thermal units to nearly $60 per million British thermal units.

(3) One of the major causes of these price increases is a lack of supply, including a lack of natural gas reserves.

(4) The lack of a reserve was compounded by the rupture of an El Paso Natural Gas Company pipeline in Carlsbad, New Mexico on August 1, 2000.

(5) Improving pipeline safety will help prevent similar accidents that interrupt the supply of natural gas and will help save lives.

(6) It is also necessary to find solutions for the lack of natural gas reserves that could be used during emergencies.

(b) STUDY BY THE NATIONAL ACADEMY OF SCIENCES.—The Secretary of Energy shall request the National Academy of Sciences to—

(1) conduct a study to—

(A) determine the causes of recent increases in the price of natural gas, including whether the increases have been caused by problems with the supply of natural gas or by problems with the natural gas transmission system;

(B) identify any Federal or State policies that may have contributed to the price increases; and

(C) determine what Federal action would be necessary to improve the reserve supply of natural gas for use in situations of natural gas shortages and price increases, including determining the feasibility and advisability of a Federal strategic natural gas reserve system; and

(2) not later than 60 days after the date of enactment of this Act, submit to Congress a report on the results of the study.

**SEC. 779. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.**

(a) STUDY.—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network. In carrying out the study, the Commission shall consider—

(1) the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers;

(2) capacity constraints during unusual weather periods;

(3) potential constraint points in regional, interstate, and international pipeline capacity serving New England; and

(4) the quality and efficiency of the Federal environmental review and permitting process for natural gas pipelines.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Senate Committee on Energy and Natural Resources and the appropriate committee of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

**PART III—PIPELINE SECURITY SENSITIVE INFORMATION**

**SEC. 781. MEETING COMMUNITY RIGHT TO KNOW WITHOUT SECURITY RISKS.**

Section 60117 is amended by adding at the end the following:

''(l) WITHHOLDING CERTAIN INFORMATION.—

''(1) IN GENERAL.—Notwithstanding any other provision of this chapter requiring the Secretary to provide information obtained by the Secretary or an officer, employee, or agent in carrying out this chapter to State or local government officials, the public, or any other person, the Secretary shall withhold such information if it is information that is described in section 552(b)(1)(A) of title 5, United States Code.

''(2) CONDITIONAL RELEASE.—Notwithstanding paragraph (1), upon the receipt of assurances satisfactory to the Secretary that the information will be handled appropriately, the Secretary may provide information permitted to be withheld under that paragraph—

''(A) to the owner or operator of the affected pipeline system;

''(B) to an officer, employee or agent of a Federal, State, tribal, or local government, including a volunteer fire department, concerned with carrying out this chapter, with protecting the facilities, with protecting public safety, or with national security issues;

''(C) in an administrative or judicial proceeding brought under this chapter or an administrative or judicial proceeding that addresses terrorist actions or threats of such actions; or

''(D) to such other persons as the Secretary determines necessary to protect public safety and security.

''(3) REPORT TO CONGRESS.—The Secretary shall provide an annual report to the Congress, in appropriate form as determined by the Secretary, containing a summary of determinations made by the Secretary during the preceding year to withhold information from release under paragraph (1).''.

**SEC. 782. TECHNICAL ASSISTANCE FOR SECURITY OF PIPELINE FACILITIES.**

The Secretary of Transportation may provide technical assistance to an operator of a pipeline facility or to State, tribal, or local officials to prevent or respond to acts of terrorism that may impact the pipeline facility, including—

(1) actions by the Secretary that support the use of National Guard or State or Federal personnel to provide additional security for a pipeline facility at risk of terrorist attack or in response to such an attack;

(2) use of resources available to the Secretary to develop and implement security measures for a pipeline facility;

*(3) identification of security issues with respect to the operation of a pipeline facility; and*

*(4) the provision of information and guidance on security practices that prevent damage to pipeline facilities from terrorist attacks.*

**SEC. 783. CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.**

*Section 60123(b) of title 49, United States Code, is amended—*

*(1) by striking ''or'' after ''gas pipeline facility'' and inserting a comma; and*

*(2) by inserting after ''liquid pipeline facility'' the following: '', or either an intrastate gas pipeline facility or an intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce''.*

## DIVISION C—DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

## TITLE VIII—FUELS AND VEHICLES

### Subtitle A—CAFE Standards, Alternative Fuels, and Advanced Technology

**SEC. 801. INCREASED FUEL ECONOMY STANDARDS.**

*(a) REQUIREMENT FOR NEW REGULATIONS.—*

*(1) IN GENERAL.—The Secretary of Transportation shall issue, under section 32902 of title 49, United States Code, new regulations setting forth increased average fuel economy standards for automobiles that are determined on the basis of the maximum feasible average fuel economy levels for the automobiles, taking into consideration the matters set forth in subsection (f) of such section.*

*(2) TIME FOR ISSUING REGULATIONS.—*

*(A) NON-PASSENGER AUTOMOBILES.—For non-passenger automobiles, the Secretary of Transportation shall issue the final regulations not later than 15 months after the date of the enactment of this Act.*

*(B) PASSENGER AUTOMOBILES.—For passenger automobiles, the Secretary of Transportation shall issue—*

*(i) the proposed regulations not later than 180 days after the date of the enactment of this Act; and*

*(ii) the final regulations not later than 2 years after that date.*

*(b) PHASED INCREASES.—The regulations issued pursuant to subsection (a) shall specify standards that take effect successively over several vehicle model years not exceeding 15 vehicle model years.*

*(c) CLARIFICATION OF AUTHORITY TO AMEND PASSENGER AUTOMOBILE STANDARD.—Section 32902(b) of title 49, United States Code, is amended by inserting before the period at the end the following: ''or such other number as the Secretary prescribes under subsection (c)''.*

*(d) ENVIRONMENTAL ASSESSMENT.—When issuing final regulations setting forth increased average fuel economy standards under this section, the Secretary of Transportation shall also issue an environmental assessment of the effects of the implementation of the increased standards on the environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Transportation for fiscal year 2003, to remain available until expended, $2,000,000 to carry out this section.*

**SEC. 802. EXPEDITED PROCEDURES FOR CONGRESSIONAL INCREASE IN FUEL ECONOMY STANDARDS.**

*(a) CONDITION FOR APPLICABILITY.—If the Secretary of Transportation fails to issue final regulations with respect to non-passenger automobiles under section 801, or fails to issue final regulations with respect to passenger automobiles under such section, on or before the date by which such final regulations are required by such section to be issued, respectively, then this section shall apply with respect to a bill described in subsection (b).*

*(b) BILL.—A bill referred to in this subsection is a bill that satisfies the following requirements:*

*(1) INTRODUCTION.—The bill is introduced by one or more Members of Congress not later than 60 days after the date referred to in subsection (a).*

*(2) TITLE.—The title of the bill is as follows: ''A bill to establish new average fuel economy standards for certain motor vehicles.''.*

*(3) TEXT.—The bill provides after the enacting clause only the text specified in subparagraph (A) or (B) or any provision described in subparagraph (C), as follows:*

*(A) NON-PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to non-passenger automobiles, the following text:*

*''That, section 32902 of title 49, United States Code, is amended by adding at the end the following new subsection:*

*'''(_) NON-PASSENGER AUTOMOBILES.—The average fuel economy standard for non-passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.''', the first blank space being filled in with a subsection designation, the second blank space being filled in with the number of a year, and the third blank space being filled in with a number.*

*(B) PASSENGER AUTOMOBILES.—In the case of a bill relating to a failure timely to issue final regulations relating to passenger automobiles, the following text:*

*''That, section 32902(b) of title 49, United States Code, is amended to read as follows:*

*'''(b) PASSENGER AUTOMOBILES.—Except as provided in this section, the average fuel economy standard for passenger automobiles manufactured by a manufacturer in a model year after model year ____ shall be ____ miles per gallon.''', the first blank space being filled in with the number of a year and the second blank space being filled in with a number.*

*(C) SUBSTITUTE TEXT.—Any text substituted by an amendment that is in order under subsection (c)(3).*

*(c) EXPEDITED PROCEDURES.—A bill described in subsection (b) shall be considered in a House of Congress in accordance with the procedures provided for the consideration of joint resolutions in paragraphs (3) through (8) of section 8066(c) of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98–473; 98 Stat. 1936), with the following exceptions:*

*(1) REFERENCES TO RESOLUTION.—The references in such paragraphs to a resolution shall be deemed to refer to the bill described in subsection (b).*

*(2) COMMITTEES OF JURISDICTION.—The committees to which the bill is referred under this subsection shall—*

*(A) in the Senate, be the Committee on Commerce, Science, and Transportation; and*

*(B) in the House of Representatives, be the Committee on Energy and Commerce.*

*(3) AMENDMENTS.—*

*(A) AMENDMENTS IN ORDER.—Only four amendments to the bill are in order in each House, as follows:*

*(i) Two amendments proposed by the majority leader of that House.*

*(ii) Two amendments proposed by the minority leader of that House.*

*(B) FORM AND CONTENT.—To be in order under subparagraph (A), an amendment shall propose to strike all after the enacting clause and substitute text that only includes the same text as is proposed to be stricken except for one or more different numbers in the text.*

*(C) DEBATE, ET CETERA.—Subparagraph (B) of section 8066(c)(5) of the Department of Defense Appropriations Act, 1985 (98 Stat. 1936) shall apply to the consideration of each amendment proposed pursuant to subparagraph (A) of this paragraph in the same manner as such subparagraph (B) applies to debatable motions.*

**SEC. 803. REVISED CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.**

*Section 32902(f) of title 49, United States Code, is amended to read as follows:*

*''(f) CONSIDERATIONS FOR DECISIONS ON MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY.—When deciding maximum feasible average fuel economy under this section, the Secretary of Transportation shall consider the following matters:*

*''(1) Technological feasibility.*

*''(2) Economic practicability.*

*''(3) The effect of other motor vehicle standards of the Government on fuel economy.*

*''(4) The need of the United States to conserve energy.*

*''(5) The desirability of reducing United States dependence on imported oil.*

*''(6) The effects of the average fuel economy standards on motor vehicle and passenger safety.*

*''(7) The effects of increased fuel economy on air quality.*

*''(8) The adverse effects of average fuel economy standards on the relative competitiveness of manufacturers.*

*''(9) The effects of compliance with average fuel economy standards on levels of employment in the United States.*

*''(10) The cost and lead time necessary for the introduction of the necessary new technologies.*

*''(11) The potential for advanced technology vehicles, such as hybrid and fuel cell vehicles, to contribute to the achievement of significant reductions in fuel consumption.*

*''(12) The extent to which the necessity for vehicle manufacturers to incur near-term costs to comply with the average fuel economy standards adversely affects the availability of resources for the development of advanced technology for the propulsion of motor vehicles.*

*''(13) The report of the National Research Council that is entitled 'Effectiveness and Impact of Corporate Average Fuel Economy Standards', issued in January 2002.''.*

**SEC. 804. EXTENSION OF MAXIMUM FUEL ECONOMY INCREASE FOR ALTERNATIVE FUELED VEHICLES.**

*Section 32906(a)(1) of title 49, United States Code, is amended—*

*(1) in subparagraph (A), by striking ''1993–2004'' and inserting ''1993 through 2008''; and*

*(2) in subparagraph (B), by striking ''2005–2008'' and inserting ''2009 through 2012''.*

**SEC. 805. PROCUREMENT OF ALTERNATIVE FUELED AND HYBRID LIGHT DUTY TRUCKS.**

*(a) VEHICLE FLEETS NOT COVERED BY REQUIREMENT IN ENERGY POLICY ACT OF 1992.—*

*(1) HYBRID VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that only hybrid vehicles are procured by or for each agency fleet of light duty trucks that is not in a fleet of vehicles to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies.*

*(2) WAIVER AUTHORITY.—The head of an agency, in consultation with the Administrator, may waive the applicability of the policy regarding the procurement of hybrid vehicles in paragraph (1) to that agency to the extent that the head of that agency determines necessary—*

*(A) to meet specific requirements of the agency for capabilities of light duty trucks;*

*(B) to procure vehicles consistent with the standards applicable to the procurement of fleet vehicles for the Federal Government;*

*(C) to adjust to limitations on the commercial availability of light duty trucks that are hybrid vehicles; or*

*(D) to avoid the necessity of procuring a hybrid vehicle for the agency when each of the hybrid vehicles available for meeting the requirements of the agency has a cost to the United States that exceeds the costs of comparable non-hybrid vehicles by a factor that is significantly higher than the difference between—*

*(i) the real cost of the hybrid vehicle to retail purchasers, taking into account the benefit of any tax incentives available to retail purchasers for the purchase of the hybrid vehicle; and*

*(ii) the costs of the comparable nonhybrid vehicles to retail purchasers.*

*(3) APPLICABILITY TO PROCUREMENTS AFTER FISCAL YEAR 2004.—This subsection applies with respect to procurements of light duty trucks in fiscal year 2005 and subsequent fiscal years.*

*(b) REQUIREMENT TO EXCEED REQUIREMENT IN ENERGY POLICY ACT OF 1992.—*

*(1) LIGHT DUTY TRUCKS.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, of the light duty trucks procured in fiscal years after fiscal year 2004 for the fleets of light duty vehicles of the agency to which section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) applies—*

*(A) 5 percent of the total number of such trucks that are procured in each of fiscal years 2005 and 2006 are alternative fueled vehicles or hybrid vehicles; and*

*(B) 10 percent of the total number of such trucks that are procured in each fiscal year after fiscal year 2006 are alternative fueled vehicles or hybrid vehicles.*

*(2) COUNTING OF TRUCKS.—Light duty trucks acquired for an agency of the executive branch that are counted to comply with section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13212) for a fiscal year shall be counted to determine the total number of light duty trucks procured for that agency for that fiscal year for the purposes of paragraph (1), but shall not be counted to satisfy the requirement in that paragraph.*

*(c) DEFINITIONS.—In this section:*

*(1) HYBRID VEHICLE.—The term ''hybrid vehicle'' means—*

*(A) a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both—*

*(i) an internal combustion or heat engine using combustible fuel; and*

*(ii) a rechargeable energy storage system; and*

*(B) any other vehicle that is defined as a hybrid vehicle in regulations prescribed by the Secretary of Energy for the administration of title III of the Energy Policy Act of 1992.*

*(2) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' has the meaning given that term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).*

*(d) INAPPLICABILITY TO DEPARTMENT OF DEFENSE.—This section does not apply to the Department of Defense, which is subject to comparable requirements under section 318 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1055; 10 U.S.C. 2302 note).*

***SEC. 806. USE OF ALTERNATIVE FUELS.***

*(a) EXCLUSIVE USE OF ALTERNATIVE FUELS IN DUAL FUELED VEHICLES.—The head of each agency of the executive branch shall coordinate with the Administrator of General Services to ensure that, not later than January 1, 2009, the fuel actually used in the fleet of dual fueled vehicles used by the agency is an alternative fuel.*

*(b) WAIVER AUTHORITY.—*

*(1) CAPABILITY WAIVER.—*

*(A) AUTHORITY.—If the Secretary of Transportation determines that not all of the dual fueled vehicles can operate on alternative fuels at all times, the Secretary may waive the requirement of subsection (a) in part, but only to the extent that—*

*(i) not later than January 1, 2009, not less than 50 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels; and*

*(ii) not later than January 1, 2011, not less than 75 percent of the total annual volume of fuel used in the dual fueled vehicles shall be alternative fuels.*

*(B) EXPIRATION.—In no case may a waiver under subparagraph (A) remain in effect after December 31, 2012.*

*(2) REGIONAL FUEL AVAILABILITY WAIVER.—The Secretary may waive the applicability of the requirement of subsection (a) to vehicles used by an agency in a particular geographic area where the alternative fuel otherwise required to be used in the vehicles is not reasonably available to retail purchasers of the fuel, as certified to the Secretary by the head of the agency.*

*(c) DEFINITIONS.—In this section:*

*(1) ALTERNATIVE FUEL.—The term ''alternative fuel'' has the meaning given that term in section 32901(a)(1) of title 49, United States Code.*

*(2) DUAL FUELED VEHICLE.—The term ''dual fueled vehicle'' has the meaning given the term ''dual fueled automobile'' in section 32901(a)(8) of title 49, United States Code.*

*(3) FLEET.—The term ''fleet'', with respect to dual fueled vehicles, has the meaning that is given that term with respect to light duty motor vehicles in section 301(9) of the Energy Policy Act of 1992 (42 U.S.C. 13211(9)).*

***SEC. 807. HYBRID ELECTRIC AND FUEL CELL VEHICLES.***

*(a) EXPANSION OF SCOPE.—The Secretary of Energy shall expand the research and development program of the Department of Energy on advanced technologies for improving the environmental cleanliness of vehicles to emphasize research and development on the following:*

*(1) Fuel cells, including—*

*(A) high temperature membranes for fuel cells; and*

*(B) fuel cell auxiliary power systems.*

*(2) Hydrogen storage.*

*(3) Advanced vehicle engine and emission control systems.*

*(4) Advanced batteries and power electronics for hybrid vehicles.*

*(5) Advanced fuels.*

*(6) Advanced materials.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Energy for fiscal year 2003, the amount of $225,000,000 for carrying out the expanded research and development program provided for under this section.*

***SEC. 808. DIESEL FUELED VEHICLES.***

*(a) DIESEL COMBUSTION AND AFTER TREATMENT TECHNOLOGIES.—The Secretary of Energy shall accelerate research and development directed toward the improvement of diesel combustion and after treatment technologies for use in diesel fueled motor vehicles.*

*(b) GOAL.—*

*(1) COMPLIANCE WITH TIER 2 EMISSION STANDARDS BY 2010.—The Secretary shall carry out subsection (a) with a view to developing and demonstrating diesel technology meeting tier 2 emission standards not later than 2010.*

*(2) TIER 2 EMISSION STANDARDS DEFINED.—In this subsection, the term ''tier 2 emission standards'' means the motor vehicle emission standards promulgated by the Administrator of the Environmental Protection Agency on February 10, 2000, under sections 202 and 211 of the Clean Air Act to apply to passenger cars, light trucks, and larger passenger vehicles of model years after the 2003 vehicle model year.*

***SEC. 809. FUEL CELL DEMONSTRATION.***

*(a) PROGRAM REQUIRED.—The Secretary of Energy and the Secretary of Defense shall jointly carry out a program to demonstrate—*

*(1) fuel cell technologies developed in the PNGV and Freedom Car programs;*

*(2) fuel cell technologies developed in research and development programs of the Department of Defense; and*

*(3) follow-on fuel cell technologies.*

*(b) PURPOSES OF PROGRAM.—The purposes of the program are to identify and support technological advances that are necessary to achieve accelerated availability of fuel cell technology for use both for nonmilitary and military purposes.*

*(c) COOPERATION WITH INDUSTRY.—*

*(1) IN GENERAL.—The demonstration program shall be carried out in cooperation with industry, including the automobile manufacturing industry and the automotive systems and component suppliers industry.*

*(2) COST SHARING.—The Secretary of Energy and the Secretary of Defense shall provide for industry to bear, in cash or in kind, at least one-half of the total cost of carrying out the demonstration program.*

*(d) DEFINITIONS.—In this section:*

*(1) PNGV PROGRAM.—The term ''PNGV program'' means the Partnership for a New Generation of Vehicles, a cooperative program engaged in by the Departments of Commerce, Energy, Transportation, and Defense, the Environmental Protection Agency, the National Science Foundation, and the National Aeronautics and Space Administration with the automotive industry for the purpose of developing a new generation of vehicles with capabilities resulting in significantly improved fuel efficiency together with low emissions without compromising the safety, performance, affordability, or utility of the vehicles.*

*(2) FREEDOM CAR PROGRAM.—The term ''Freedom Car program'' means a cooperative research program engaged in by the Department of Energy with the United States Council on Automotive Research as a follow-on to the PNGV program.*

***SEC. 810. BUS REPLACEMENT.***

*(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine how best to provide for converting the composition of the fleets of buses in metropolitan areas and school systems from buses utilizing current diesel technology to—*

*(1) buses that draw propulsion from onboard fuel cells;*

*(2) buses that are hybrid electric vehicles;*

*(3) buses that are fueled by clean-burning fuels, such as renewable fuels (including agriculture-based biodiesel fuels), natural gas, and ultra-low sulphur diesel;*

*(4) buses that are powered by clean diesel engines: or*

*(5) an assortment of buses described in paragraphs (1), (2), (3), and (4).*

*(b) REPORT.—*

*(1) REQUIREMENT.—The Secretary of Transportation shall submit a report on the results of the study on bus fleet conversions under subsection (a) to Congress.*

*(2) CONTENT.—The report on bus fleet conversions shall include the following:*

*(A) An assessment of effectuating conversions by the following means:*

*(i) Replacement of buses.*

*(ii) Replacement of power and propulsion systems in buses utilizing current diesel technology.*

*(iii) Other means.*

*(B) Feasible schedules for carrying out the conversions.*

*(C) Estimated costs of carrying out the conversions.*

*(D) An assessment of the benefits of the conversions in terms of emissions control and reduction of fuel consumption.*

***SEC. 811. AVERAGE FUEL ECONOMY STANDARDS FOR PICKUP TRUCKS.***

*(a) IN GENERAL.—Section 32902(a) of title 49, United States Code, is amended—*

*(1) by inserting ''(1)'' after the after ''AUTOMOBILES.—''; and*

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

*''(2) The average fuel economy standard for pickup trucks manufactured by a manufacturer in a model year after model year 2004 shall be no higher than 20.7 miles per gallon. No average fuel economy standard prescribed under another provision of this section shall apply to pickup trucks.''.*

*(b) DEFINITION OF PICKUP TRUCK.—Section 32901(a) of such title is amended by adding at the end the following new paragraph:*

*''(17) 'pickup truck' has the meaning given that term in regulations prescribed by the Secretary for the administration of this chapter, as*

*in effect on January 1, 2002, except that such term shall also include any additional vehicle that the Secretary defines as a pickup truck in regulations prescribed for the administration of this chapter after such date.''.*

**SEC. 812. EXCEPTION TO HOV PASSENGER REQUIREMENTS FOR ALTERNATIVE FUEL VEHICLES.**

*Section 102(a)(1) of title 23, United States Code, is amended by inserting after ''required'' the following: ''(unless, in the discretion of the State transportation department, the vehicle is being operated on, or is being fueled by, an alternative fuel (as defined in section 301(2) of the Energy Policy Act of 1992 (42 U.S.C. 13211(2)))''.*

**SEC. 813. DATA COLLECTION.**

*Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following:*

*''(m) In order to improve the ability to evaluate the effectiveness of the Nation's renewable fuels mandate, the Administrator shall conduct and publish the results of a survey of renewable fuels consumption in the motor vehicle fuels market in the United States monthly, and in a manner designed to protect the confidentiality of individual responses. In conducting the survey, the Administrator shall collect information retrospectively to 1998, both on a national basis and a regional basis, including—*

*(1) the quantity of renewable fuels produced;*

*(2) the cost of production;*

*(3) the cost of blending and marketing;*

*(4) the quantity of renewable fuels blended;*

*(5) the quantity of renewable fuels imported; and*

*(6) market price data.*

**SEC. 814. GREEN SCHOOL BUS PILOT PROGRAM.**

*(a) ESTABLISHMENT.—The Secretary of Energy and the Secretary of Transportation shall jointly establish a pilot program for awarding grants on a competitive basis to eligible entities for the demonstration and commercial application of alternative fuel school buses and ultra-low sulfur diesel school buses.*

*(b) REQUIREMENTS.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal Register grant requirements on eligibility for assistance, and on implementation of the program established under subsection (a), including certification requirements to ensure compliance with this subtitle.*

*(c) SOLICITATION.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall solicit proposals for grants under this section.*

*(d) ELIGIBLE RECIPIENTS.—A grant shall be awarded under this section only—*

*(1) to a local governmental entity responsible for providing school bus service for one or more public school systems; or*

*(2) jointly to an entity described in paragraph (1) and a contracting entity that provides school bus service to the public school system or systems.*

*(e) TYPES OF GRANTS.—*

*(1) IN GENERAL.—Grants under this section shall be for the demonstration and commercial application of technologies to facilitate the use of alternative fuel school buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977 and diesel-powered buses manufactured before model year 1991.*

*(2) NO ECONOMIC BENEFIT.—Other than the receipt of the grant, a recipient of a grant under this section may not receive any economic benefit in connection with the receipt of the grant.*

*(3) PRIORITY OF GRANT APPLICATIONS.—The Secretary shall give priority to awarding grants to applicants who can demonstrate the use of alternative fuel buses and ultra-low sulfur diesel school buses instead of buses manufactured before model year 1977.*

*(f) CONDITIONS OF GRANT.—A grant provided under this section shall include the following conditions:*

*(1) All buses acquired with funds provided under the grant shall be operated as part of the school bus fleet for which the grant was made for a minimum of 5 years.*

*(2) Funds provided under the grant may only be used—*

*(A) to pay the cost, except as provided in paragraph (3), of new alternative fuel school buses or ultra-low sulfur diesel school buses, including State taxes and contract fees; and*

*(B) to provide—*

*(i) up to 10 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will only be available to the grant recipient; and*

*(ii) up to 15 percent of the price of the alternative fuel buses acquired, for necessary alternative fuel infrastructure if the infrastructure will be available to the grant recipient and to other bus fleets.*

*(3) The grant recipient shall be required to provide at least the lesser of 15 percent of the total cost of each bus received or $15,000 per bus.*

*(4) In the case of a grant recipient receiving a grant to demonstrate ultra-low sulfur diesel school buses, the grant recipient shall be required to provide documentation to the satisfaction of the Secretary that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant, and a commitment by the applicant to use such fuel in carrying out the purposes of the grant.*

*(g) BUSES.—Funding under a grant made under this section may only be used to demonstrate the use of new alternative fuel school buses or ultra-low sulfur diesel school buses that—*

*(1) have a gross vehicle weight greater than 14,000 pounds;*

*(2) are powered by a heavy duty engine;*

*(3) in the case of alternative fuel school buses, emit not more than—*

*(A) for buses manufactured in model year 2002, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and*

*(B) for buses manufactured in model years 2003 through 2006, 1.8 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and*

*(4) in the case of ultra-low sulfur diesel school buses, emit not more than the lesser of—*

*(A) the emissions of nonmethane hydrocarbons, oxides of nitrogen, and particulate matter of the best performing technology of the same class of ultra-low sulfur diesel school buses commercially available at the time the grant is made; or*

*(B) the applicable following amounts—*

*(i) for buses manufactured in model year 2002 or 2003, 3.0 grams per brake horsepower-hour of oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter; and*

*(ii) for buses manufactured in model years 2004 through 2006, 2.5 grams per brake horsepower-hour of nonmethane hydrocarbons and oxides of nitrogen and .01 grams per brake horsepower-hour of particulate matter.*

*(h) DEPLOYMENT AND DISTRIBUTION.—The Secretary shall seek to the maximum extent practicable to achieve nationwide deployment of alternative fuel school buses through the program under this section, and shall ensure a broad geographic distribution of grant awards, with a goal of no State receiving more than 10 percent of the grant funding made available under this section for a fiscal year.*

*(i) LIMIT ON FUNDING.—The Secretary shall provide not less than 20 percent and not more than 25 percent of the grant funding made available under this section for any fiscal year for the acquisition of ultra-low sulfur diesel school buses.*

*(j) DEFINITIONS.—For purposes of this section—*

*(1) the term ''alternative fuel school bus'' means a bus powered substantially by electricity (including electricity supplied by a fuel cell), or by liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, propane, or methanol or ethanol at no less than 85 percent by volume;*

*(2) the term ''idling'' means not turning off an engine while remaining stationary for more than approximately 3 minutes; and*

*(3) the term ''ultra-low sulfur diesel school bus'' means a school bus powered by diesel fuel which contains sulfur at not more than 15 parts per million.*

*(k) REDUCTION OF SCHOOL BUS IDLING.—Each local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) that receives Federal funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is encouraged to develop a policy to reduce the incidence of school buses idling at schools when picking up and unloading students.*

**SEC. 815. FUEL CELL BUS DEVELOPMENT AND DEMONSTRATION PROGRAM.**

*(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program for entering into cooperative agreements with private sector fuel cell bus developers for the development of fuel cell-powered school buses, and subsequently with not less than two units of local government using natural gas-powered school buses and such private sector fuel cell bus developers to demonstrate the use of fuel cell-powered school buses.*

*(b) COST SHARING.—The non-Federal contribution for activities funded under this section shall be not less than—*

*(1) 20 percent for fuel infrastructure development activities; and*

*(2) 50 percent for demonstration activities and for development activities not described in paragraph (1).*

*(c) FUNDING.—No more than $25,000,000 of the amounts authorized under section 815 may be used for carrying out this section for the period encompassing fiscal years 2003 through 2006.*

*(d) REPORTS TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, and not later than October 1, 2006, the Secretary shall transmit to the appropriate congressional committees a report that—*

*(1) evaluates the process of converting natural gas infrastructure to accommodate fuel cell-powered school buses; and*

*(2) assesses the results of the development and demonstration program under this section.*

**SEC. 816. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated to the Secretary of Energy for carrying out sections 814 and 815, to remain available until expended—*

*(1) $50,000,000 for fiscal year 2003;*

*(2) $60,000,000 for fiscal year 2004;*

*(3) $70,000,000 for fiscal year 2005; and*

*(4) $80,000,000 for fiscal year 2006.*

**SEC. 817. TEMPORARY BIODIESEL CREDIT EXPANSION.**

*(a) BIODIESEL CREDIT EXPANSION.—Section 312(b) of the Energy Policy Act of 1992 (42 U.S.C. 13220(b)) is amended by striking paragraph (2) and inserting the following:*

*''(2) USE.—*

*''(A) IN GENERAL.—A fleet or covered person—*

*''(i) may use credits allocated under subsection (a) to satisfy more than 50 percent of the alternative fueled vehicle requirements of a fleet or covered person under this title, title IV, and title V; but*

*''(ii) may use credits allocated under subsection (a) to satisfy 100 percent of the alternative fueled vehicle requirements of a fleet or covered person under title V for 1 or more of model years 2002 through 2005.*

*''(B) APPLICABILITY.—Subparagraph (A) does not apply to a fleet or covered person that is a biodiesel alternative fuel provider described in section 501(a)(2)(A).''.*

(b) TREATMENT AS SECTION 508 CREDITS.—Section 312(c) of the Energy Policy Act of 1992 (42 U.S.C. 13220(c)) is amended—

(1) in the subsection heading, by striking ''CREDIT NOT'' and inserting ''TREATMENT AS''; and

(2) by striking ''shall not be considered'' and inserting ''shall be treated as''.

(c) ALTERNATIVE FUELED VEHICLE STUDY AND REPORT.—

(1) DEFINITIONS.—In this subsection:

(A) 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).

(B) ALTERNATIVE FUELED VEHICLE.—The term ''alternative fueled vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(C) LIGHT DUTY MOTOR VEHICLE.—The term ''light duty motor vehicle'' has the meaning given the term in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211).

(D) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(2) BIODIESEL CREDIT EXTENSION STUDY.—As soon as practicable after the date of enactment of this Act, the Secretary shall conduct a study—

(A) to determine the availability and cost of light duty motor vehicles that qualify as alternative fueled vehicles under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.); and

(B) to compare—

(i) the availability and cost of biodiesel; with

(ii) the availability and cost of fuels that qualify as alternative fuels under title V of the Energy Policy Act of 1992 (42 U.S.C. 13251 et seq.).

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(A) describes the results of the study conducted under paragraph (2); and

(B) includes any recommendations of the Secretary for legislation to extend the temporary credit provided under subsection (a) beyond model year 2005.

**SEC. 818. NEIGHBORHOOD ELECTRIC VEHICLES.**

Section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211) is amended—

(1) by striking ''or a dual fueled vehicle'' and inserting '', a dual fueled vehicle, or a neighborhood electric vehicle'';

(2) by striking ''and'' at the end of paragraph (13);

(3) by striking the period at the end of subparagraph (14) and inserting ''; and''; and

(4) by adding at the end the following:

''(15) the term 'neighborhood electric vehicle' means a motor vehicle that qualifies as both—

''(A) a low-speed vehicle, as such term is defined in section 571.3(b) of title 49, Code of Federal Regulations; and

''(B) a zero-emission vehicle, as such term is defined in section 86.1703–99 of title 40, Code of Federal Regulations.''.

**SEC. 819. CREDIT FOR HYBRID VEHICLES, DEDICATED ALTERNATIVE FUEL VEHICLES, AND INFRASTRUCTURE.**

Section 507 of the Energy Policy Act of 1992 (42 U.S.C. 13258) is amended by adding at the end the following:

''(p) CREDITS FOR NEW QUALIFIED HYBRID MOTOR VEHICLES.—

''(1) DEFINITIONS.—In this subsection:

''(A) 2000 MODEL YEAR CITY FUEL EFFICIENCY.—The term '2000 model year city fuel efficiency', with respect to a motor vehicle, means fuel efficiency determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

| ***"If vehicle inertia weight class is:*** | ***The 2000 model year city fuel efficiency is:*** |
|---|---|
| 1,500 or 1,750 lbs | 43.7 mpg |
| 2,000 lbs | 38.3 mpg |
| 2,250 lbs | 34.1 mpg |
| 2,500 lbs | 30.7 mpg |
| 2,750 lbs | 27.9 mpg |
| 3,000 lbs | 25.6 mpg |
| 3,500 lbs | 22.0 mpg |
| 4,000 lbs | 19.3 mpg |
| 4,500 lbs | 17.2 mpg |
| 5,000 lbs | 15.5 mpg |
| 5,500 lbs | 14.1 mpg |
| 6,000 lbs | 12.9 mpg |
| 6,500 lbs | 11.9 mpg |
| 7,000 to 8,500 lbs | 11.1 mpg. |

''(ii) In the case of a light truck:

| ***"If vehicle inertia weight class is:*** | ***The 2000 model year city fuel efficiency is:*** |
|---|---|
| 1,500 or 1,750 lbs | 37.6 mpg |
| 2,000 lbs | 33.7 mpg |
| 2,250 lbs | 30.6 mpg |
| 2,500 lbs | 28.0 mpg |
| 2,750 lbs | 25.9 mpg |
| 3,000 lbs | 24.1 mpg |
| 3,500 lbs | 21.3 mpg |
| 4,000 lbs | 19.0 mpg |
| 4,500 lbs | 17.3 mpg |
| 5,000 lbs | 15.8 mpg |
| 5,500 lbs | 14.6 mpg |
| 6,000 lbs | 13.6 mpg |
| 6,500 lbs | 12.8 mpg |
| 7,000 to 8,500 lbs | 12.0 mpg. |

''(B) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.

''(C) ENERGY STORAGE DEVICE.—The term 'energy storage device' means an onboard rechargeable energy storage system or similar storage device.

''(D) FUEL EFFICIENCY.—The term 'fuel efficiency' means the percentage increased fuel efficiency specified in table 1 in paragraph (2)(C) over the average 2000 model year city fuel efficiency of vehicles in the same weight class.

''(E) MAXIMUM AVAILABLE POWER.—The term 'maximum available power', with respect to a new qualified hybrid motor vehicle that is a passenger vehicle or light truck, means the quotient obtained by dividing—

''(i) the maximum power available from the electrical storage device of the new qualified hybrid motor vehicle, during a standard 10-second pulse power or equivalent test; by

''(ii) the sum of—

''(I) the maximum power described in clause (i); and

''(II) the net power of the internal combustion or heat engine, as determined in accordance with standards established by the Society of Automobile Engineers.

''(F) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given the term in section 216 of the Clean Air Act (42 U.S.C. 7550).

''(G) NEW QUALIFIED HYBRID MOTOR VEHICLE.—The term 'new qualified hybrid motor vehicle' means a motor vehicle that—

''(i) draws propulsion energy from both—

''(I) an internal combustion engine (or heat engine that uses combustible fuel); and

''(II) an energy storage device;

''(ii) in the case of a passenger automobile or light truck—

''(I) in the case of a 2001 or later model vehicle, receives a certificate of conformity under the Clean Air Act (42 U.S.C. 7401 et seq.) and produces emissions at a level that is at or below the applicable qualifying California low emissions vehicle standards established under authority of section 243(e)(2) of the Clean Air Act (42 U.S.C. 7583(e)(2)) for that make and model year; and

''(II) in the case of a 2004 or later model vehicle, is certified by the Administrator as producing emissions at a level that is at or below the level established for Bin 5 vehicles in the Tier 2 regulations promulgated by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and

''(iii) employs a vehicle braking system that recovers waste energy to charge an energy storage device.

''(H) VEHICLE INERTIA WEIGHT CLASS.—The term 'vehicle inertia weight class' has the meaning given the term in regulations promulgated by the Administrator for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(2) ALLOCATION.—

''(A) IN GENERAL.—The Secretary shall allocate a partial credit to a fleet or covered person under this title if the fleet or person acquires a new qualified hybrid motor vehicle that is eligible to receive a credit under each of the tables in subparagraph (C).

''(B) AMOUNT.—The amount of a partial credit allocated under subparagraph (A) for a vehicle described in that subparagraph shall be equal to the sum of—

''(i) the partial credits determined under table 1 in subparagraph (C); and

''(ii) the partial credits determined under table 2 in subparagraph (C).

''(C) TABLES.—The tables referred to in subparagraphs (A) and (B) are as follows:

***"Table 1***

| ***"Partial credit for increased fuel efficiency:*** | ***Amount of credit:*** |
|---|---|
| At least 125% but less than 150% of 2000 model year city fuel efficiency | 0.14 |
| At least 150% but less than 175% of 2000 model year city fuel efficiency | 0.21 |
| At least 175% but less than 200% of 2000 model year city fuel efficiency | 0.28 |
| At least 200% but less than 225% of 2000 model year city fuel efficiency | 0.35 |
| At least 225% but less than 250% of 2000 model year city fuel efficiency | 0.50. |

***"Table 2***

| ***"Partial credit for 'Maximum Available Power':*** | ***Amount of credit:*** |
|---|---|
| At least 5% but less than 10% | 0.125 |
| At least 10% but less than 20% | 0.250 |
| At least 20% but less than 30% | 0.375 |
| At least 30% or more | 0.500. |

''(D) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the qualified hybrid motor vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(3) REGULATIONS.—The Secretary shall promulgate regulations under which any Federal fleet that acquires a new qualified hybrid motor vehicle will receive partial credits determined under the tables contained in paragraph (2)(C) for purposes of meeting the requirements of section 303.

''(q) CREDIT FOR SUBSTANTIAL CONTRIBUTION TOWARDS USE OF DEDICATED VEHICLES IN NONCOVERED FLEETS.—

''(1) DEFINITIONS.—In this subsection:

''(A) DEDICATED VEHICLE.—The term 'dedicated vehicle' includes—

''(i) a light, medium, or heavy duty vehicle; and

''(ii) a neighborhood electric vehicle.

''(B) MEDIUM OR HEAVY DUTY VEHICLE.—The term 'medium or heavy duty vehicle' includes a vehicle that—

''(i) operates solely on alternative fuel; and

''(ii)(I) in the case of a medium duty vehicle, has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds; or

''(II) in the case of a heavy duty vehicle, has a gross vehicle weight rating of more than 14,000 pounds.

''(C) SUBSTANTIAL CONTRIBUTION.—The term 'substantial contribution' (equal to 1 full credit) means not less than $15,000 in cash or in kind services, as determined by the Secretary.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title if the fleet or person makes a substantial contribution toward the acquisition and use of dedicated vehicles by a person that owns, operates, leases, or otherwise controls a fleet that is not covered by this title.

''(3) MULTIPLE CREDITS FOR MEDIUM AND HEAVY DUTY DEDICATED VEHICLES.—The Secretary shall issue 2 full credits to a fleet or covered person under this title if the fleet or person acquires a medium or heavy duty dedicated vehicle.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the acquisition of the dedicated vehicle is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.

''(5) LIMITATION.—Per vehicle credits acquired under this subsection shall not exceed the per vehicle credits allowed under this section to a fleet for qualifying vehicles in each of the weight categories (light, medium, or heavy duty).

''(r) CREDIT FOR SUBSTANTIAL INVESTMENT IN ALTERNATIVE FUEL INFRASTRUCTURE.—

''(1) DEFINITIONS.—In this section, the term 'qualifying infrastructure' means—

''(A) equipment required to refuel or recharge alternative fueled vehicles;

''(B) facilities or equipment required to maintain, repair, or operate alternative fueled vehicles;

''(C) training programs, educational materials, or other activities necessary to provide information regarding the operation, maintenance, or benefits associated with alternative fueled vehicles; and

''(D) such other activities the Secretary considers to constitute an appropriate expenditure in support of the operation, maintenance, or further widespread adoption of or utilization of alternative fueled vehicles.

''(2) ISSUANCE OF CREDITS.—The Secretary shall issue a credit to a fleet or covered person under this title for investment in qualifying infrastructure if the qualifying infrastructure is open to the general public during regular business hours.

''(3) AMOUNT.—For the purposes of credits under this subsection—

''(A) 1 credit shall be equal to a minimum investment of $25,000 in cash or in kind services, as determined by the Secretary; and

''(B) except in the case of a Federal or State fleet, no part of the investment may be provided by Federal or State funds.

''(4) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this subsection, the Secretary shall, for the year in which the investment is made, treat that credit as the acquisition of 1 alternative fueled vehicle that the fleet or covered person is required to acquire under this title.''.

**SEC. 820. RENEWABLE CONTENT OF MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Section 211 of the Clean Air Act (42 U.S.C. 7545) is amended—

(1) by redesignating subsection (o) as subsection (q); and

(2) by inserting after subsection (n) the following:

''(o) RENEWABLE FUEL PPROGRAM.—

''(1) DEFINITIONS.—In this section:

''(A) CELLULOSIC BIOMASS ETHANOL.—The term 'cellulosic biomass ethanol' means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including—

''(i) dedicated energy crops and trees;

''(ii) wood and wood residues;

''(iii) plants;

''(iv) grasses;

''(v) agricultural residues;

''(vi) fibers;

''(vii) animal wastes and other waste materials; and

''(viii) municipal solid waste.

''(B) RENEWABLE FUEL.—

''(i) IN GENERAL.—The term 'renewable fuel' means motor vehicle fuel that—

''(I)(aa) is produced from grain, starch, oilseeds, or other biomass; or

''(bb) is natural gas produced from a biogas source, including a landfill, sewage waste treatment plant, feedlot, or other place where decaying organic material is found; and

''(II) is used to replace or reduce the quantity of fossil fuel present in a fuel mixture used to operate a motor vehicle.

''(ii) INCLUSION.—The term 'renewable fuel' includes cellulosic biomass ethanol and 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 average aggregate daily crude oil throughput for the calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

''(2) RENEWABLE FUEL PROGRAM.—

''(A) IN GENERAL.—Not later than 1 year from enactment of this provision, the Administrator shall promulgate regulations ensuring that gasoline sold or dispensed to consumers in the United States, on an annual average basis, contains the applicable volume of renewable fuel as specified in subparagraph (B). Regardless of the date of promulgation, such regulations shall contain compliance provisions for refiners, blenders, and importers, as appropriate, to ensure that the requirements of this section are met, but shall not restrict where renewables can be used, or impose any per-gallon obligation for the use of renewables. If the Administrator does not promulgate such regulations, the applicable percentage, on a volume percentage of gasoline basis, shall be 1.62 in 2004.

''(B) APPLICABLE VOLUME.—

(i) CALENDAR YEARS 2004 THROUGH 2012.—For the purpose of subparagraph (A), the applicable volume for any of calendar years 2004 through 2012 shall be determined in accordance with the following table:

**Applicable volume of renewable fuel**

| ''Calendar year: | (In billions of gallons) |
|---|---|
| 2004 | 2.3 |
| 2005 | 2.6 |
| 2006 | 2.9 |
| 2007 | 3.2 |
| 2008 | 3.5 |
| 2009 | 3.9 |
| 2010 | 4.3 |
| 2011 | 4.7 |
| 2012 | 5.0. |

''(ii) CALENDAR YEAR 2013 AND THEREAFTER.—For the purpose of subparagraph (A), the applicable volume for calendar year 2013 and each calendar year thereafter shall be equal to the product obtained by multiplying—

''(I) the number of gallons of gasoline that the Administrator estimates will be sold or introduced into commerce in the calendar year; and

''(II) the ratio that—

''(aa) 5.0 billion gallons of renewable fuels; bears to

''(bb) the number of gallons of gasoline sold or introduced into commerce in calendar year 2012.

''(3) APPLICABLE PERCENTAGES.—Not later than October 31 of each calendar year, through 2011, the Administrator of the Energy Information Administration shall provide the Administrator an estimate of the volumes of gasoline sales in the United States for the coming calendar year. Based on such estimates, the Administrator shall by November 30 of each calendar year, through 2011, determine and publish in the Federal Register, the renewable fuel obligation, on a volume percentage of gasoline basis, applicable to refiners, blenders, distributors and importers, as appropriate, for the coming calendar year, to ensure that the requirements of paragraph (2) are met. For each calendar year, the Administrator shall establish a single applicable percentage that applies to all parties, and make provision to avoid redundant obligations. In determining the applicable percentages, the Administrator shall make adjustments to account for the use of renewable fuels by exempt small refineries during the previous year.

''(4) CELLULOSIC BIOMASS ETHANOL.—For the purpose of paragraph (2), 1 gallon of cellulosic biomass ethanol shall be considered to be the equivalent of 1.5 gallon of renewable fuel.

''(5) CREDIT PROGRAM.—

''(A) IN GENERAL.—The regulations promulgated to carry out this subsection shall provide for the generation of an appropriate amount of credits by any person that refines, blends, or imports gasoline that contains a quantity of renewable fuel that is greater than the quantity required under paragraph (2). Such regulations shall provide for the generation of an appropriate amount of credits for biodiesel fuel. If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(B) USE OF CREDITS.—A person that generates credits under subparagraph (A) may use the credits, or transfer all or a portion of the credits to another person, for the purpose of complying with paragraph (2).

''(C) LIFE OF CREDITS.—A credit generated under this paragraph shall be valid to show compliance:

(i) in the calendar year in which the credit was generated or the next calendar year, or

(ii) in the calendar year in which the credit was generated or next two consecutive calendar years if the Administrator promulgates regulations under paragraph (6).

''(D) INABILITY TO PURCHASE SUFFICIENT CREDITS.—The regulations promulgated to carry out this subsection shall include provisions allowing any person that is unable to generate or purchase sufficient credits to meet the requirements under paragraph (2) to carry forward a renewables deficit provided that, in the calendar year following the year in which the renewables deficit is created, such person shall achieve compliance with the renewables requirement under paragraph (2), and shall generate or purchase additional renewables credits to offset the renewables deficit of the previous year.

''(6) SEASONAL VARIATIONS IN RENEWABLE FUEL USE.—

''(A) STUDY.—For each of calendar years 2004 through 2012, the Administrator of the Energy Information Administration, shall conduct a study of renewable fuels blending to determine whether there are excessive seasonal variations in the use of renewable fuels.

''(B) REGULATION OF EXCESSIVE SEASONAL VARIATIONS.—If, for any calendar year, the Administrator of the Energy Information Administration, based on the study under subparagraph (A), makes the determinations specified in subparagraph (C), the Administrator shall promulgate regulations to ensure that 35 percent or more of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) is used during each of the periods specified in subparagraph (D) of each subsequent calendar year.

''(C) DETERMINATIONS.—The determinations referred to in subparagraph (B) are that—

''(i) less than 35 percent of the quantity of renewable fuels necessary to meet the requirement of paragraph (2) has been used during one of the periods specified in subparagraph (D) of the calendar year; and

''(ii) a pattern of excessive seasonal variation described in clause (i) will continue in subsequent calendar years.

''(D) PERIODS.—The two periods referred to in this paragraph are—

''(i) April through September; and

''(ii) January through March and October through December.

''(E) EXCLUSIONS.—Renewable fuels blended or consumed in 2004 in a state which has received a waiver under section 209(b) shall not be included in the study in subparagraph (A).

''(7) WAIVERS.—

''(A) IN GENERAL.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, may waive the requirement of paragraph (2) in whole or in part on petition by one or more States by reducing the national quantity of renewable fuel required under this subsection—

''(i) based on a determination by the Administrator, after public notice and opportunity for comment, that implementation of the requirement would severely harm the economy or environment of a State, a region, or the United States; or

''(ii) based on a determination by the Administrator, after public notice and opportunity for comment, that there is an inadequate domestic supply or distribution capacity to meet the requirement.

''(B) PETITIONS FOR WAIVERS.—The Administrator, in consultation with the Secretary of Agriculture and the Secretary of Energy, shall approve or disapprove a State petition for a waiver of the requirement of paragraph (2) within 90 days after the date on which the petition is received by the Administrator.

''(C) TERMINATION OF WAIVERS.—A waiver granted under subparagraph (A) shall terminate after 1 year, but may be renewed by the Administrator after consultation with the Secretary of Agriculture and the Secretary of Energy.

''(8) STUDY AND WAIVER FOR INITIAL YEAR OF PROGRAM.—Not later than 180 days from enactment, the Secretary of Energy shall complete for the Administrator a study assessing whether the renewable fuels requirement under paragraph (2) will likely result in significant adverse consumer impacts in 2004, on a national, regional or state basis. Such study shall evaluate renewable fuel supplies and prices, blendstock supplies, and supply and distribution system capabilities. Based on such study, the Secretary shall make specific recommendations to the Administrator regarding waiver of the requirements of paragraph (2), in whole or in part, to avoid any such adverse impacts. Within 270 days from enactment, the Administrator shall, consistent with the recommendations of the Secretary waive, in whole or in part, the renewable fuels requirement under paragraph (2) by reducing the national quantity of renewable fuel required under this subsection in 2004. This provision shall not be interpreted as limiting the Administrator's authority to waive the requirements of paragraph (2) in whole, or in part, under paragraph (7), pertaining to waivers.

''(9) SMALL REFINERIES.—

''(A) IN GENERAL.—The requirement of paragraph (2) shall not apply to small refineries until January 1, 2008. Not later than December 31, 2006, the Secretary of Energy shall complete for the Administrator a study to determine whether the requirement of paragraph (2) would impose a disproportionate economic hardship on small refineries. For any small refinery that the Secretary of Energy determines would experience a disproportionate economic hardship, the Administrator shall extend the small refinery exemption for such small refinery for no less than two additional years.

''(B) ECONOMIC HARDSHIP.—

''(i) EXTENSION OF EXEMPTION.—A small refinery may at any time petition the Administrator for an extension of the exemption from the requirement of paragraph (2) for the reason of disproportionate economic hardship. In evaluating a hardship petition, the Administrator, in consultation with the Secretary of Energy, shall consider the findings of the study in addition to other economic factors.

''(ii) DEADLINE FOR ACTION ON PETITIONS.—The Administrator shall act on any petition submitted by a small refinery for a hardship exemption not later than 90 days after the receipt of the petition.

''(C) CREDIT PROGRAM.—If a small refinery notifies the Administrator that it waives the exemption provided by this Act, the regulations shall provide for the generation of credits by the small refinery beginning in the year following such notification.

''(D) OPT-IN FOR SMALL REFINERS.—A small refinery shall be subject to the requirements of this section if it notifies the Administrator that it waives the exemption under subparagraph (A).

(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 two 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.''.

(d) SURVEY OF RENEWABLE FUEL MARKET.—

(1) SURVEY AND REPORT.—Not later than December 1, 2005, 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.—The Administrator may require any refiner, blender, or importer to keep such records and make such reports as are necessary to ensure that the survey conducted under paragraph (1) is accurate. The Administrator shall rely, to the extent practicable, on existing reporting and recordkeeping requirements to avoid duplicative requirements.

(3) APPLICABLE LAW.—Activities carried out under this subsection shall be conducted in a manner designed to protect confidentiality of individual responses.

(e) RENEWABLE FUELS SAFE HARBOR.—

(1) IN GENERAL.—Notwithstanding any other provision of federal or state law, no renewable fuel, as defined by this Act, used or intended to be used as a motor vehicle fuel, nor any motor vehicle fuel containing such renewable fuel, shall be deemed defective in design or manufacture by virtue of the fact that it is, or contains, such a renewable fuel, if it does not violate a control or prohibition imposed by the Administrator under section 211 of the Clean Air Act, as amended by this Act, and the manufacturer is in compliance with all requests for information under section 211(b) of the Clean Air Act, as amended by this Act. In the event that the safe harbor under this section does not apply, the existence of a design defect or manufacturing defect shall be determined under otherwise applicable law.

(2) EXCEPTIONS.—This subsection shall not apply to ethers.

(3) EFFECTIVE DATE.—This subsection shall be effective as of the date of enactment and shall apply with respect to all claims filed on or after that date.

**SEC. 820A. FEDERAL AGENCY ETHANOL-BLENDED GASOLINE AND BIODIESEL PURCHASING REQUIREMENT.**

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 nonethanol-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 paragraphs (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).''.*

***SEC. 820B. COMMERCIAL BYPRODUCTS FROM MUNICIPAL SOLID WASTE LOAN GUARANTEE PROGRAM.***

*(a) DEFINITION OF MUNICIPAL SOLID WASTE.—In this section, the term ''municipal solid waste'' has the meaning given the term ''solid waste'' in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903).*

*(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish a program to provide guarantees of loans by private institutions for the construction of facilities for the processing and conversion of municipal solid waste into fuel ethanol and other commercial byproducts.*

*(c) REQUIREMENTS.—The Secretary may provide a loan guarantee under subsection (b) to an applicant if—*

*(1) without a loan guarantee, credit is not available to the applicant under reasonable terms or conditions sufficient to finance the construction of a facility described in subsection (b);*

*(2) the prospective earning power of the applicant and the character and value of the security pledged provide a reasonable assurance of repayment of the loan to be guaranteed in accordance with the terms of the loan; and*

*(3) the loan bears interest at a rate determined by the Secretary to be reasonable, taking into account the current average yield on outstanding obligations of the United States with remaining periods of maturity comparable to the maturity of the loan.*

*(d) CRITERIA.—In selecting recipients of loan guarantees from among applicants, the Secretary shall give preference to proposals that—*

*(1) meet all applicable Federal and State permitting requirements;*

*(2) are most likely to be successful; and*

*(3) are located in local markets that have the greatest need for the facility because of—*

*(A) the limited availability of land for waste disposal; or*

*(B) a high level of demand for fuel ethanol or other commercial byproducts of the facility.*

*(e) MATURITY.—A loan guaranteed under subsection (b) shall have a maturity of not more than 20 years.*

*(f) TERMS AND CONDITIONS.—The loan agreement for a loan guaranteed under subsection (b) shall provide that no provision of the loan agreement may be amended or waived without the consent of the Secretary.*

*(g) ASSURANCE OF REPAYMENT.—The Secretary shall require that an applicant for a loan guarantee under subsection (b) provide an assurance of repayment in the form of a performance bond, insurance, collateral, or other means acceptable to the Secretary in an amount equal to not less than 20 percent of the amount of the loan.*

*(h) GUARANTEE FEE.—The recipient of a loan guarantee under subsection (b) shall pay the Secretary an amount determined by the Secretary to be sufficient to cover the administrative costs of the Secretary relating to the loan guarantee.*

*(i) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all guarantees made under this section. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the loan for the guarantee with respect to principal and interest. The validity of the guarantee shall be incontestable in the hands of a holder of the guaranteed loan.*

*(j) REPORTS.—Until each guaranteed loan under this section has been repaid in full, the Secretary shall annually submit to Congress an report on the activities of the Secretary under this section.*

*(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.*

*(l) TERMINATION OF AUTHORITY.—The authority of the Secretary to issue a loan guarantee under subsection (b) terminates on the date that is 10 years after the date of enactment of this Act.*

***Subtitle B—Additional Fuel Efficiency Measures***

***SEC. 821. FUEL EFFICIENCY OF THE FEDERAL FLEET OF AUTOMOBILES.***

*Section 32917 of title 49, United States Code, is amended to read as follows:*

***''§ 32917. Standards for executive agency automobiles***

*''(a) BASELINE AVERAGE FUEL ECONOMY.—The head of each executive agency shall determine, for all automobiles in the agency's fleet of automobiles that were leased or bought as a new vehicle in fiscal year 1999, the average fuel economy for such automobiles. For the purposes of this section, the average fuel economy so determined shall be the baseline average fuel economy for the agency's fleet of automobiles.*

*''(b) INCREASE OF AVERAGE FUEL ECONOMY.—The head of an executive agency shall manage the procurement of automobiles for that agency in such a manner that—*

*''(1) not later than September 30, 2003, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 1 mile per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet; and*

*''(2) not later than September 30, 2005, the average fuel economy of the new automobiles in the agency's fleet of automobiles is not less than 3 miles per gallon higher than the baseline average fuel economy determined under subsection (a) for that fleet.*

*''(c) CALCULATION OF AVERAGE FUEL ECONOMY.—Average fuel economy shall be calculated for the purposes of this section in accordance with guidance which the Secretary of Transportation shall prescribe for the implementation of this section.*

*''(d) DEFINITIONS.—In this section:*

*''(1) The term 'automobile' does not include any vehicle designed for combat-related missions, law enforcement work, or emergency rescue work.*

*''(2) The term 'executive agency' has the meaning given that term in section 105 of title 5.*

*''(3) The term 'new automobile', with respect to the fleet of automobiles of an executive agency, means an automobile that is leased for at least 60 consecutive days or bought, by or for the agency, after September 30, 1999.''.*

***SEC. 822. IDLING REDUCTION SYSTEMS IN HEAVY DUTY VEHICLES.***

*Title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended by adding at the end the following:*

***''PART K—REDUCING TRUCK IDLING***

***''SEC. 400AAA. REDUCING TRUCK IDLING.***

*''(a) STUDY.—Not later than 18 months after the date of enactment of this section, the Secretary shall, in consultation with the Secretary of Transportation, commence a study to analyze the potential fuel savings resulting from long duration idling of main drive engines in heavy-duty vehicles.*

*''(b) REGULATIONS.—Upon completion of the study under subsection (a), the Secretary may issue regulations requiring the installation of idling reduction systems on all newly manufactured heavy-duty vehicles.*

*''(c) DEFINITIONS.—As used in this section:*

*''(1) The term 'heavy-duty vehicle' means a vehicle that has a gross vehicle weight rating greater than 8,500 pounds and is powered by a diesel engine.*

*''(2) The term 'idling reduction system' means a device or system of devices used to reduce long duration idling of a diesel engine in a vehicle.*

*''(3) The term 'long duration idling' means the operation of a main drive engine of a heavy-duty vehicle for a period of more than 15 consecutive minutes when the main drive engine is not engaged in gear, except that such term does not include idling as a result of traffic congestion or other impediments to the movement of a heavy-duty vehicle.*

*''(4) The term 'vehicle' has the meaning given such term in section 4 of title 1, United States Code.''.*

***SEC. 823. CONSERVE BY BICYCLING PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a Conserve By Bicycling pilot program that shall provide for up to 10 geographically dispersed projects to encourage the use of bicycles in place of motor vehicles. Such projects shall use education and marketing to convert motor vehicle trips to bike trips, document project results and energy savings, and facilitate partnerships among entities in the fields of transportation, law enforcement, education, public health, environment, or energy. At least 20 percent of the cost of each project shall be provided from State or local sources. Not later than 2 years after implementation of the projects, the Secretary of Transportation shall submit a report to Congress on the results of the pilot program.*

*(b) NATIONAL ACADEMY STUDY.—The Secretary of Transportation shall contract with the National Academy of Sciences to conduct a study on the feasibility and benefits of converting motor vehicle trips to bicycle trips and to issue a report, not later than 2 years after enactment of this Act, on the findings of such study.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of' Transportation $5,500,000, to remain available until expended, to carry out the pilot program and study pursuant to this section.*

***SEC. 824. FUEL CELL VEHICLE PROGRAM.***

*Not later than 1 year from date of enactment of this section, the Secretary shall develop a program with timetables for developing technologies to enable at least 100,000 hydrogen-fueled fuel cell vehicles to be available for sale in the United States by 2010 and at least 2.5 million of such vehicles to be available by 2020 and annually thereafter. The program shall also include timetables for development of technologies to provide 50 million gasoline equivalent gallons of hydrogen for sale in fueling stations in the United States by 2010 and at least 2.5 billion gasoline equivalent gallons by 2020 and annually thereafter. The Secretary shall annually include a review of the progress toward meeting the vehicle sales of Energy budget.*

***Subtitle C—Federal Reformulated Fuels***

***SEC. 831. SHORT TITLE.***

*This subtitle may be cited as the ''Federal Reformulated Fuels Act of 2002''.*

***SEC. 832. 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. BEDROCK BIOREMEDIATION.***

*''The Administrator shall establish, at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) with established expertise in bioremediation of contaminated bedrock aquifers, a resource center—*

*''(1) to conduct research concerning bioremediation of methyl tertiary butyl ether in contaminated underground aquifers, including contaminated bedrock; and*

*''(2) to provide for States a technical assistance clearinghouse for information concerning innovative technologies for bioremediation described in paragraph (1).*

***''SEC. 9012. SOIL REMEDIATION.***

*''The Administrator may establish a program to conduct research concerning remediation of methyl tertiary butyl ether contamination of soil, including granitic or volcanic soil.*

***''SEC. 9013. AUTHORIZATION OF APPROPRIATIONS.***

*''In addition to amounts made available under section 2007(f), there are authorized to be appropriated from the Leaking Underground Storage Tank Trust Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986—*

*''(1) to carry out section 9003(h)(12), $200,000,000 for fiscal year 2003, to remain available until expended;*

*''(2) to carry out section 9010—*

*''(A) $50,000,000 for fiscal year 2003; and*

*''(B) $30,000,000 for each of fiscal years 2004 through 2008;*

*''(3) to carry out section 9011—*

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

*''(B) $300,000 for each of fiscal years 2004 through 2008; and*

*''(4) to carry out section 9012—*

*''(A) $100,000 for fiscal year 2003; and*

*''(B) $50,000 for each of fiscal years 2004 through 2008.*

*(c) TECHNICAL AMENDMENTS.—(1) Section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by striking the item relating to section 9010 and inserting the following:*

*''Sec. 9010. Release prevention and compliance.*
*''Sec. 9011. Bedrock bioremediation.*
*''Sec. 9012. Soil remediation.*
*''Sec. 9013. 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. 833. AUTHORITY FOR WATER QUALITY PROTECTION FROM FUELS.***

*(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 oxygen standard, Congress was aware that significant use of MTBE could result from the adoption of that standard, and that the use of MTBE would likely be important to the cost-effective implementation of that program;*

*(4) Congress 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;*

*(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; 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) PROHIBITION 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 iso-octane and alkylates.*

*''(ii) DETERMINATION.—The Administrator, in consultation with the Secretary of Energy, may determine that transition assistance for the production of iso-octane and alkylates is inconsistent with the provisions of subparagraph (B) and, on that basis, may deny applications for grants authorized by this provision.*

*''(B) FURTHER GRANTS.—The Secretary of Energy, in consultation with the Administrator, may also further make grants to merchant producers of MTBE in the United States to assist the producers in the conversion of eligible production facilities described in subparagraph (C) to the production of such other fuel additives that, consistent with 211(c)—*

''(i) unless the Administrator determines that such fuel additives may reasonably be anticipated to endanger public health or the environment;

''(ii) have been registered and have been tested or are being tested in accordance with the requirements of this section; and

''(iii) will contribute to replacing gasoline volumes lost 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 2003 through 2005.''.

(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 regarding the authority of States to limit the use of methyl tertiary butyl ether in motor vehicle fuel.

**SEC. 834. 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);

(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); and

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect 270 days after the date of enactment of this Act, except that such amendments shall take effect upon enactment in any State that has received a waiver under section 209(b) of the Clean Air Act.

(b) MAINTENANCE OF TOXIC AIR POLLUTANT EMISSION REDUCTIONS.—Section 211(k)(1) of the Clean Air Act (42 U.S.C. 7545(k)(1)) is amended—

(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) DEFINITIONS.—In this subparagraph the term 'PADD' means a Petroleum Administration for Defense District.

''(ii) REGULATIONS REGARDING EMISSIONS OF TOXIC AIR POLLUTANTS.—Not later than 270 days after the date of enactment of this subparagraph, the Administrator shall establish, for each refinery or importer (other than a refinery or importer in a State that has received a waiver under section 209(b) with regard to gasoline produced for use in that state), standards for toxic air pollutants from use of the reformulated gasoline produced or distributed by the refinery or importer that maintain the reduction of the average annual aggregate emissions of toxic air pollutants for reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000, determined on the basis of data collected by the Administrator with respect to the refinery or importer.

(iii) STANDARDS APPLICABLE TO SPECIFIC REFINERIES OR IMPORTERS.—

''(I) APPLICABILITY OF STANDARDS.—For any calendar year, the standards applicable to a refinery or importer under clause (ii) shall apply to the quantity of gasoline produced or distributed by the refinery or importer in the calendar year only to the extent that the quantity is less than or equal to the average annual quantity of reformulated gasoline produced or distributed by the refinery or importer during calendar years 1999 and 2000.

''(II) APPLICABILITY OF OTHER STANDARDS.—For any calendar year, the quantity of gasoline produced or distributed by a refinery or importer that is in excess of the quantity subject to subclause (I) shall be subject to standards for toxic air pollutants promulgated under subparagraph (A) and paragraph (3)(B).

''(iv) CREDIT PROGRAM.—The Administrator shall provide for the granting and use of credits for emissions of toxic air pollutants in the same manner as provided in paragraph (7).

''(v) REGIONAL PROTECTION OF TOXICS REDUCTION BASELINES.—

''(I) IN GENERAL.—Not later than 60 days after the date of enactment of this subparagraph, and not later than April 1 of each calendar year that begins after that date of enactment, the Administrator shall publish in the Federal Register a report that specifies, with respect to the previous calendar year—

''(aa) the quantity of reformulated gasoline produced that is in excess of the average annual quantity of reformulated gasoline produced in 1999 and 2000; and

''(bb) the reduction of the average annual aggregate emissions of toxic air pollutants in each PADD, based on retail survey data or data from other appropriate sources.

''(II) EFFECT OF FAILURE TO MAINTAIN AGGREGATE TOXICS REDUCTIONS.—If, in any calendar year, the reduction of the average annual aggregate emissions of toxic air pollutants in a PADD fails to meet or exceed the reduction of the average annual aggregate emissions of toxic air pollutants in the PADD in calendar years 1999 and 2000, the Administrator, not later than 90 days after the date of publication of the report for the calendar year under subclause (I), shall—

''(aa) identify, to the maximum extent practicable, the reasons for the failure, including the sources, volumes, and characteristics of reformulated gasoline that contributed to the failure; and

''(bb) promulgate revisions to the regulations promulgated under clause (ii), to take effect not earlier than 180 days but not later than 270 days after the date of promulgation, to provide that, notwithstanding clause (iii)(II), all reformulated gasoline produced or distributed at each refinery or importer shall meet the standards applicable under clause (iii) not later than April 1 of the year following the report in subclause (II) and for subsequent years.

''(vi) REGULATIONS TO CONTROL HAZARDOUS AIR POLLUTANTS FROM MOTOR VEHICLES AND MOTOR VEHICLE FUELS.—Not later than July 1, 2004, the Administrator shall promulgate final regulations to control hazardous air pollutants from motor vehicles and motor vehicle fuels, as provided for in section 80.1045 of title 40, Code of Federal Regulations (as in effect on the date of enactment of this subparagraph).''.

(c) CONSOLIDATION IN REFORMULATED GASOLINE REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall revise the reformulated gasoline regulations under subpart D of part 80 of title 40, Code of Federal Regulations, to consolidate the regulations applicable to VOC-Control Regions 1 and 2 under section 80.41 of that title by eliminating the less stringent requirements applicable to gasoline designated for VOC-Control Region 2 and instead applying the more stringent requirements applicable to gasoline designated for VOC-Control Region 1.

(d) SAVINGS CLAUSE.—Nothing in this section is intended to affect or prejudice any legal claims or actions with respect to regulations promulgated by the Administrator prior to enactment of this Act regarding emissions of toxic air pollutants from motor vehicles.

(e) DETERMINATION REGARDING A STATE PETITION.—Section 211(k) of the Clean Air Act (42 U.S.C. 7545(k)) is amended by inserting after paragraph (10) the following:

''(11) DETERMINATION REGARDING A STATE PETITION.—

''(A) IN GENERAL.—Notwithstanding any other provision of this section, not less than 30 days after enactment of this paragraph the Administrator must determine the adequacy of any petition received from a Governor of a State to exempt gasoline sold in that State from the requirements of paragraph (2)(B).

''(B) APPROVAL.—If the determination in (A) is not made within thirty days of enactment of this paragraph, the petition shall be deemed approved.''.

**SEC. 835. 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, 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, air quality, and water resources of the adjustment for ethanol-blended reformulated gasoline to the VOC performance requirements otherwise applicable under sections 211(k)(1) and 211(k)(3) of the Clean Air Act.

''(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 these studies.

''(B) CONTRACTS FOR STUDY.—In carrying out this paragraph, the Administrator may enter into one or more contracts with nongovernmental entities including but not limited to National Energy Laboratories and institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).''.

**SEC. 836. ANALYSES OF MOTOR VEHICLE FUEL CHANGES.**

Section 211 of the Clean Air Act (42 U.S.C. 7545) (as amended by section 820(a)) is amended by inserting after subsection (o) the following:

''(p) ANALYSES OF MOTOR VEHICLE FUEL CHANGES AND EMISSIONS MODEL.—

''(1) ANTI-BACKSLIDING ANALYSIS.—

''(A) DRAFT ANALYSIS.—Not later than 4 years after the date of enactment of this 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 2002.

''(B) FINAL ANALYSIS.—After providing a reasonable opportunity for comment but not later than 5 years after the date of enactment of this paragraph, the Administrator shall publish the analysis in final form.

''(2) EMISSIONS MODEL.—For the purposes of this subsection, as soon as the necessary data are available, the Administrator shall develop and finalize an emissions model that reasonably reflects the effects of gasoline characteristics or components on emissions from vehicles in the motor vehicle fleet during calendar year 2005.''.

**SEC. 837. 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.—In addition to the provisions of subparagraph (A), upon the 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 two 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. 838. 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. 839. 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;

(C) the effect of Federal, State, and local motor vehicle fuel regulations, including multiple motor vehicle fuel requirements, on—

(i) domestic refineries;

(ii) the fuel distribution system; and

(iii) industry investment in new capacity;

(D) the effect of the requirements described in paragraph (1) on emissions from vehicles, refineries, and fuel handling facilities;

(E) the feasibility of developing national or regional motor vehicle fuel slates for the 48 contiguous States that, while 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, 2006, 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) motor vehicle fuel producers and distributors; and

(D) the public.

**SEC. 840. REVIEW OF FEDERAL PROCUREMENT INITIATIVES RELATING TO USE OF RECYCLED PRODUCTS AND FLEET AND TRANSPORTATION EFFICIENCY.**

Not later than 180 days after the date of enactment of this Act, the Administrator of General Services shall submit to Congress a report that details efforts by each Federal agency to implement the procurement policies specified in Executive Order No. 13101 (63 Fed. Reg. 49643; relating to governmental use of recycled products) and Executive Order No. 13149 (65 Fed. Reg. 24607; relating to Federal fleet and transportation efficiency).

## TITLE IX—ENERGY EFFICIENCY AND ASSISTANCE TO LOW INCOME CONSUMERS

### Subtitle A—Low Income Assistance and State Energy Programs

**SEC. 901. INCREASED FUNDING FOR LIHEAP, WEATHERIZATION ASSISTANCE, AND STATE ENERGY GRANTS.**

(a) LIHEAP.—(1) Section 2602(b) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(b)) is amended by striking the first sentence and inserting the following: ''There are authorized to be appropriated to carry out the provisions of this title (other than section 2607A), $3,400,000,000 for each of fiscal years 2003 through 2005.''.

(2) Section 2602(e) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621(e)) is amended by striking ''$600,000,000'' and inserting ''$1,000,000,000''.

(3) Section 2609A(a) of the Low-Income Energy Assistance Act of 1981 (42 U.S.C. 8628a(a)) is amended by striking ''not more than $300,000'' and inserting: ''not more than $750,000''.

(b) WEATHERIZATION ASSISTANCE.—Section 422 of the Energy Conservation and Production Act (42 U.S.C. 6872) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary.'' and inserting: ''$325,000,000 for fiscal year 2003, $400,000,000 for fiscal year 2004, and $500,000,000 for fiscal year 2005.''.

**SEC. 902. STATE ENERGY PROGRAMS.**

(a) STATE ENERGY CONSERVATION PLANS.—Section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322)) is amended by adding at the end the following:

''(g) The Secretary shall, at least once every 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). Such reviews should consider the energy conservation plans of other States within the region, and identify opportunities and actions that may be carried out in pursuit of common energy conservation goals.''.

(b) STATE ENERGY CONSERVATION GOALS.—Section 364 of the Energy Policy and Conservation Act (42 U.S.C. 6324) is amended to read as follows:

''SEC. 364. Each State energy conservation plan with respect to which assistance is made available under this part on or after the date of enactment of the Energy Policy Act of 2002 shall contain a goal, consisting of an improvement of 25 percent or more in the efficiency of use of energy in the State concerned in calendar year

*2010 as compared to calendar year 1990, and may contain interim goals.''.*

*(c) STATE ENERGY CONSERVATION GRANTS.—Section 365(f) of the Energy Policy and Conservation Act (42 U.S.C. 6325(f)) is amended by striking ''for fiscal years 1999 through 2003 such sums as may be necessary.'' and inserting: ''$100,000,000 for each of fiscal years 2003 and 2004; $125,000,000 for fiscal year 2005; and such sums as may be necessary for each fiscal year thereafter.''.*

***SEC. 903. ENERGY EFFICIENT SCHOOLS.***

*(a) ESTABLISHMENT.—There is established in the Department of Energy the High Performance Schools Program (in this section referred to as the ''Program'').*

*(b) GRANTS.—The Secretary of Energy may make grants to a State energy office—*

*(1) to assist school districts in the State to improve the energy efficiency of school buildings;*

*(2) to administer the Program; and*

*(3) to promote participation in the Program.*

*(c) GRANTS TO ASSIST SCHOOL DISTRICTS.—The Secretary shall condition grants under subsection (b)(1) on the State energy office using the grants to assist school districts that have demonstrated—*

*(1) a need for the grants to build additional school buildings to meet increasing elementary or secondary enrollments or to renovate existing school buildings; and*

*(2) a commitment to use the grant funds to develop high performance school buildings in accordance with a plan that the State energy office, in consultation with the State educational agency, has determined is feasible and appropriate to achieve the purposes for which the grant is made.*

*(d) GRANTS FOR ADMINISTRATION.—Grants under subsection (b)(2) shall be used to—*

*(1) evaluate compliance by school districts with requirements of this section;*

*(2) distribute information and materials to clearly define and promote the development of high performance school buildings for both new and existing facilities;*

*(3) organize and conduct programs for school board members, school personnel, architects, engineers, and others to advance the concepts of high performance school buildings;*

*(4) obtain technical services and assistance in planning and designing high performance school buildings; or*

*(5) collect and monitor data and information pertaining to the high performance school building projects.*

*(e) GRANTS TO PROMOTE PARTICIPATION.—Grants under subsection (b)(3) shall be used for promotional and marketing activities, including facilitating private and public financing, promoting the use of energy savings performance contracts, working with school administrations, students, and communities, and coordinating public benefit programs.*

*(f) SUPPLEMENTING GRANT FUNDS.—The State energy office shall encourage qualifying school districts to supplement funds awarded pursuant to this section with funds from other sources in the implementation of their plans.*

*(g) ALLOCATIONS.—Except as provided in subsection (h), funds appropriated to carry out this section shall be allocated as follows:*

*(1) 70 percent shall be used to make grants under subsection (b)(1).*

*(2) 15 percent shall be used to make grants under subsection (b)(2).*

*(3) 15 percent shall be used to make grants under subsection (b)(3).*

*(h) OTHER FUNDS.—The Secretary of Energy may retain an amount, not to exceed $300,000 per year, to assist State energy offices in coordinating and implementing the Program. Such funds may be used to develop reference materials to further define the principles and criteria to achieve high performance school buildings.*

*(i) AUTHORIZATION OF APPROPRIATIONS.—For grants under subsection (b) there are authorized to be appropriated—*

*(1) $200,000,000 for fiscal year 2003;*

*(2) $210,000,000 for fiscal year 2004;*

*(3) $220,000,000 for fiscal year 2005;*

*(4) $230,000,000 for fiscal year 2006; and*

*(5) such sums as may be necessary for fiscal year 2007 and each fiscal year thereafter through fiscal year 2012.*

*(j) DEFINITIONS.—For purposes of this section:*

*(1) HIGH PERFORMANCE SCHOOL BUILDING.—The term ''high performance school building'' means a school building that, in its design, construction, operation, and maintenance—*

*(A) maximizes use of renewable energy and energy-efficient technologies and systems;*

*(B) is cost-effective on a life-cycle basis;*

*(C) achieves either—*

*(i) the applicable Energy Star building energy performance ratings; or*

*(ii) energy consumption levels at least 30 percent below those of the most recent version of ASHRAE Standard 90.1;*

*(D) uses affordable, environmentally preferable, and durable materials;*

*(E) enhances indoor environmental quality;*

*(F) protects and conserves water; and*

*(G) optimizes site potential.*

*(2) RENEWABLE ENERGY.—The term ''renewable energy'' means energy produced by solar, wind, biomass, ocean, geothermal, or hydroelectric power.*

*(3) SCHOOL.—The term ''school'' means—*

*(A) an ''elementary school'' as that term is defined in section 14101(14) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(14)),*

*(B) a ''secondary school'' as that term is defined in section 14101(25) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(25)), or*

*(C) an elementary or secondary Indian school funded by the Bureau of Indian Affairs.*

*(4) STATE EDUCATIONAL AGENCY.—The term ''State educational agency'' has the same meaning given such term in section 14101(28) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801(28)).*

*(5) STATE ENERGY OFFICE.—The term ''State energy office'' means the State agency responsible for developing State energy conservation plans under section 362 of the Energy Policy and Conservation Act (42 U.S.C. 6322), or, if no such agency exists, a State agency designated by the Governor of the State.*

***SEC. 904. LOW INCOME COMMUNITY ENERGY EFFICIENCY PILOT PROGRAM.***

*(a) GRANTS.—The Secretary of Energy is authorized to make grants to units of local government, private, non-profit community development organizations, and Indian tribe economic development entities to improve energy efficiency, identify and develop alternative renewable and distributed energy supplies, and increase energy conservation in low income rural and urban communities.*

*(b) PURPOSE OF GRANTS.—The Secretary may make grants on a competitive basis for—*

*(1) investments that develop alternative renewable and distributed energy supplies;*

*(2) energy efficiency projects and energy conservation programs;*

*(3) studies and other activities that improve energy efficiency in low income rural and urban communities;*

*(4) planning and development assistance for increasing the energy efficiency of buildings and facilities; and*

*(5) technical and financial assistance to local government and private entities on developing new renewable and distributed sources of power or combined heat and power generation.*

*(c) DEFINITION.—For purposes of this section, the term ''Indian tribe'' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section there are authorized to be appropriated to the Secretary of Energy an amount not to exceed $20,000,000 for fiscal year 2003 and each fiscal year thereafter through fiscal year 2005.*

***SEC. 905. ENERGY EFFICIENT APPLIANCE REBATE PROGRAMS.***

*(a) DEFINITIONS.—In this section:*

*(1) ELIGIBLE STATE.—The term ''eligible State'' means a State that meets the requirements of subsection (b).*

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

*(3) RESIDENTIAL ENERGY STAR PRODUCT.—The term ''residential Energy Star product'' means a product for a residence that is rated for energy efficiency under the Energy Star program.*

*(4) 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 the amount made available under subsection (e) for the fiscal year by the ratio that the population of the State in the most recent calendar year for which data are available bears to the total population of all eligible States in that calendar year.*

*(2) MINIMUM ALLOCATIONS.—For each fiscal year, the amounts allocated under this subsection shall be adjusted proportionately so that no eligible State is allocated a sum that is less than an amount determined by the Secretary.*

*(d) USE OF ALLOCATED FUNDS.—The allocation to a State energy office under subsection (c) may be used to pay up to 50 percent of the cost of establishing and carrying out a State program.*

*(e) ISSUANCE OF REBATES.—Rebates may be provided to residential consumers that meet the requirements of the State program. The amount of a rebate shall be determined by the State energy office, taking into consideration—*

*(1) the amount of the allocation to the State energy office under subsection (c);*

*(2) the amount of any Federal or State tax incentive available for the purchase of the residential Energy Star product; and*

*(3) the difference between the cost of the residential Energy Star product and the cost of an appliance that is not a residential Energy Star product, but is of the same type as, and is the nearest capacity, performance, and other relevant characteristics (as determined by the State energy office) to the residential Energy Star product.*

*(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal year 2003 through fiscal year 2012.*

***Subtitle B—Federal Energy Efficiency***

***SEC. 911. ENERGY MANAGEMENT REQUIREMENTS.***

*(a) ENERGY REDUCTION GOALS.—Section 543(a)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)(1)) is amended to read as follows:*

*''(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, the Federal buildings of the agency (including each industrial or laboratory facility) so that the energy consumption per gross square foot of the Federal buildings of the agency in fiscal years 2002 through 2011 is reduced, as compared with the energy consumption per gross square foot of the Federal buildings of the agency in fiscal year 2000, by the percentage specified in the following table:*

| ''Fiscal Year | Percentage reduction |
|---|---|
| 2002 | 2 |
| 2003 | 4 |
| 2004 | 6 |
| 2005 | 8 |
| 2006 | 10 |
| 2007 | 12 |
| 2008 | 14 |
| 2009 | 16 |
| 2010 | 18 |
| 2011 | 20.''. |

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

*''(3) Not later than December 31, 2010, the Secretary shall review the results of the implementation of the energy performance requirement established under paragraph (1) and submit to Congress recommendations concerning energy performance requirements for calendar years 2012 through 2021.''.*

*(c) EXCLUSIONS.—Section 543(c)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8253(c)(1)) is amended to read as follows:*

*''(1)(A) An agency may exclude, from the energy performance requirement for a calendar year established under subsection (a) and the energy management requirement established under subsection (b), any Federal building or collection of Federal buildings, if the head of the agency finds that—*

*''(i) compliance with those requirements would be impracticable;*

*''(ii) the agency has completed and submitted all federally required energy management reports;*

*''(iii) the agency has achieved compliance with the energy efficiency requirements of this Act, the Energy Policy Act of 1992, Executives Orders, and other Federal law; and*

*''(iv) the agency has implemented all practicable, life-cycle cost-effective projects with respect to the Federal building or collection of Federal buildings to be excluded.*

*''(B) A finding of impracticability under subparagraph (A)(i) shall be based on—*

*''(i) the energy intensiveness of activities carried out in the Federal building or collection of Federal buildings; or*

*''(ii) the fact that the Federal building or collection of Federal buildings is used in the performance of a national security function.''.*

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

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

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

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

*''(3) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall issue guidelines that establish criteria for exclusions under paragraph (1).''.*

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

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

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

*(g) CONFORMING AMENDMENT.—Section 550(d) of the National Energy Conservation Policy Act (42 U.S.C. 8258b(d)) is amended in the second sentence by striking ''the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).'' and inserting ''each of the energy reduction goals established under section 543(a).''.*

***SEC. 912. ENERGY USE MEASUREMENT AND ACCOUNTABILITY.***

*Section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) is further amended by adding at the end the following:*

*''(e) METERING OF ENERGY USE.—*

*''(1) DEADLINE.—By October 1, 2004, all Federal buildings shall, for the purposes of efficient use of energy and reduction in the cost of electricity used in such buildings, be metered or submetered in accordance with guidelines established by the Secretary under paragraph (2). Each agency shall use, to the maximum extent practicable, advanced meters or advanced metering devices that provide data at least daily and that measure at least hourly consumption of electricity in the Federal buildings of the agency. Such data shall be incorporated into existing Federal energy tracking systems and made available to Federal facility energy managers.*

*''(2) GUIDELINES.—*

*''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary, in consultation with the Department of Defense, the General Services Administration and representatives from the metering industry, utility industry, energy services industry, energy efficiency industry, national laboratories, universities and Federal facility energy managers, shall establish guidelines for agencies to carry out paragraph (1).*

*''(B) REQUIREMENTS FOR GUIDELINES.—The guidelines shall—*

*''(i) take into consideration—*

*''(I) the cost of metering and submetering and the reduced cost of operation and maintenance expected to result from metering and submetering;*

*''(II) the extent to which metering and submetering are expected to result in increased potential for energy management, increased potential for energy savings and energy efficiency improvement, and cost and energy savings due to utility contract aggregation; and*

*''(III) the measurement and verification protocols of the Department of Energy;*

*''(ii) include recommendations concerning the amount of funds and the number of trained personnel necessary to gather and use the metering information to track and reduce energy use;*

*''(iii) establish one or more dates, not later than 1 year after the date of issuance of the guidelines, on which the requirements specified in paragraph (1) shall take effect; and*

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

*''(3) PLAN.—No later than 6 months after the date guidelines are established under paragraph (2), in a report submitted by the agency under section 548(a), each agency shall submit to the Secretary a plan describing how the agency will implement the requirements of paragraph (1), including (A) how the agency will designate personnel primarily responsible for achieving the requirements and (B) demonstration by the agency, complete with documentation, of any finding that advanced meters or advanced metering devices, as defined in paragraph (1), are not practicable.''.*

***SEC. 913. FEDERAL BUILDING PERFORMANCE STANDARDS.***

*(a) REVISED STANDARDS.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is amended—*

*(1) in paragraph (2)(A), by striking ''CABO Model Energy Code, 1992'' and inserting ''the 2000 International Energy Conservation Code''; and*

*(2) by adding at the end the following:*

*''(3) REVISED FEDERAL BUILDING ENERGY EFFICIENCY PERFORMANCE STANDARDS.—*

*''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this paragraph, the Secretary of Energy shall establish, by rule, revised Federal building energy efficiency performance standards that require that, if cost-effective—*

*''(i) new commercial buildings and multifamily high rise residential buildings be constructed so as to achieve the applicable Energy Star building energy performance ratings or energy consumption levels at least 30 percent below those of the most recent ASHRAE Standard 90.1, whichever results in the greater increase in energy efficiency;*

*''(ii) new residential buildings (other than those described in clause (i)) be constructed so as to achieve the applicable Energy Star building energy performance ratings or achieve energy consumption levels at least 30 percent below the requirements of the most recent version of the International Energy Conservation Code, whichever results in the greater increase in energy efficiency; and*

*''(iii) sustainable design principles are applied to the siting, design, and construction of all new and replacement buildings.*

*''(B) ADDITIONAL REVISIONS.—Not later than 1 year after the date of approval of amendments to ASHRAE Standard 90.1 or the 2000 International Energy Conservation Code, the Secretary of Energy shall determine, based on the cost-effectiveness of the requirements under the amendments, whether the revised standards established under this paragraph should be updated to reflect the amendments.*

*''(C) STATEMENT ON COMPLIANCE OF NEW BUILDINGS.—In the budget request of the Federal agency for each fiscal year and each report submitted by the Federal agency under section 548(a) of the National Energy Conservation Policy Act (42 U.S.C. 8258(a)), the head of each Federal agency shall include—*

*''(i) a list of all new Federal buildings of the Federal agency; and*

*''(ii) a statement concerning whether the Federal buildings meet or exceed the revised standards established under this paragraph, including a monitoring and commissioning report that is in compliance with the measurement and verification protocols of the Department of Energy.*

*''(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this paragraph and to implement the revised standards established under this paragraph.''.*

*(b) ENERGY LABELING PROGRAM.—Section 305(a) of the Energy Conservation and Production Act (42 U.S.C. 6834(a)) is further amended by adding at the end the following:*

*''(e) ENERGY LABELING PROGRAM.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency, shall develop an energy labeling program for new Federal buildings that exceed the revised standards established under subsection (a)(3) by 15 percent or more.''.*

***SEC. 914. PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.***

*(a) REQUIREMENTS.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:*

***''SEC. 552. FEDERAL PROCUREMENT OF ENERGY EFFICIENT PRODUCTS.***

*''(a) DEFINITIONS.—In this section:*

*''(1) ENERGY STAR PRODUCT.—The term 'Energy Star product' means a product that is rated*

*for energy efficiency under an Energy Star program.*

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

*''(3) EXECUTIVE AGENCY.—The term 'executive agency' has the meaning given the term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).*

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

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

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

*''(A) an Energy Star product; or*

*''(B) a FEMP designated product.*

*''(2) EXCEPTIONS.—The head of an executive agency is not required to procure an Energy Star product or FEMP designated product under paragraph (1) if—*

*''(A) an Energy Star product or FEMP designated product is not cost effective over the life cycle of the product; or*

*''(B) no Energy Star product or FEMP designated product is reasonably available that meets the requirements of the executive agency.*

*''(3) PROCUREMENT PLANNING.—The head of an executive agency shall incorporate into the specifications for all procurements involving energy consuming products and systems, and into the factors for the evaluation of offers received for the procurement, criteria for energy efficiency that are consistent with the criteria used for rating Energy Star products and for rating FEMP designated products.*

*''(c) LISTING OF ENERGY EFFICIENT PRODUCTS IN FEDERAL CATALOGS.—Energy Star and FEMP designated products shall be clearly identified and prominently displayed in any inventory or listing of products by the General Services Administration or the Defense Logistics Agency.*

*(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the National Energy Conservation Policy Act (42 U.S.C. 8201 note) is amended by inserting after the item relating to section 551 the following:*

*''Sec. 552. Federal Government procurement of energy efficient products.''*

*(c) REGULATIONS.—Not later than 180 days after the effective date specified in subsection (f), the Secretary of Energy shall issue guidelines to carry out section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).*

*(d) DESIGNATION OF ENERGY STAR PRODUCTS.—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall expedite the process of designating products as Energy Star products (as defined in section 552 of the National Energy Conservation Policy Act (as added by subsection (a)).*

*(e) DESIGNATION OF ELECTRIC MOTORS.—In the case of electric motors of 1 to 500 horsepower, agencies shall select only premium efficient motors that meet a standard designated by the Secretary. The Secretary shall designate such a standard within 120 days of the enactment of this paragraph, after considering the recommendations of associated electric motor manufacturers and energy efficiency groups.*

*(f) EFFECTIVE DATE.—Subsection (a) and the amendment made by that subsection take effect on the date that is 180 days after the date of enactment of this Act.*

***SEC. 915. REPEAL OF ENERGY SAVINGS PERFORMANCE CONTRACT SUNSET.***

*Section 801(c) of the National Energy Conservation Policy Act (42 U.S.C. 8287(c)) is repealed.*

***SEC. 916. ENERGY SAVINGS PERFORMANCE CONTRACT DEFINITIONS.***

*(a) ENERGY SAVINGS.—Section 804(2) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(2)) is amended to read as follows:*

*''(2) The term 'energy savings' means a reduction in the cost of energy or water, from a base cost established through a methodology set forth in the contract, used in an existing federally owned building or buildings or other federally owned facilities as a result of—*

*''(A) the lease or purchase of operating equipment, improvements, altered operation and maintenance, or technical services;*

*''(B) the increased efficient use of existing energy sources by cogeneration or heat recovery, excluding any cogeneration process for other than a federally owned building or buildings or other federally owned facilities; or*

*''(C) the increased efficient use of existing water sources.''.*

*(b) ENERGY SAVINGS CONTRACT.—Section 804(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(3)) is amended to read as follows:*

*''(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy or water conservation measure or series of measures at one or more locations.''.*

*(c) ENERGY OR WATER CONSERVATION MEASURE.—Section 804(4) of the National Energy Conservation Policy Act (42 U.S.C. 8287c(4)) is amended to read as follows:*

*''(4) The term 'energy or water conservation measure' means—*

*''(A) an energy conservation measure, as defined in section 551(4) (42 U.S.C. 8259(4)); or*

*''(B) a water conservation measure that improves water efficiency, is life cycle cost effective, and involves water conservation, water recycling or reuse, more efficient treatment of wastewater or stormwater, improvements in operation or maintenance efficiencies, retrofit activities or other related activities, not at a Federal hydroelectric facility.''.*

***SEC. 917. REVIEW OF ENERGY SAVINGS PERFORMANCE CONTRACT PROGRAM.***

*Within 180 days after the date of the enactment of this Act, the Secretary of Energy shall complete a review of the Energy Savings Performance Contract program to identify statutory, regulatory, and administrative obstacles that prevent Federal agencies from fully utilizing the program. In addition, this review shall identify all areas for increasing program flexibility and effectiveness, including audit and measurement verification requirements, accounting for energy use in determining savings, contracting requirements, and energy efficiency services covered. The Secretary shall report these findings to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, and shall implement identified administrative and regulatory changes to increase program flexibility and effectiveness to the extent that such changes are consistent with statutory authority.*

***SEC. 918. FEDERAL ENERGY BANK.***

*Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end the following:*

***''SEC. 553. FEDERAL ENERGY BANK.***

*''(a) DEFINITIONS.—In this section:*

*''(1) BANK.—The term 'Bank' means the Federal Energy Bank established by subsection (b).*

*''(2) ENERGY OR WATER EFFICIENCY PROJECT.—The term 'energy or water efficiency project' means a project that assists a Federal agency in meeting or exceeding the energy or water efficiency requirements of—*

*''(A) this part;*

*''(B) title VIII;*

*''(C) subtitle F of title I of the Energy Policy Act of 1992 (42 U.S.C. 8262 et seq.); or*

*''(D) any applicable Executive order, including Executive Order No. 13123.*

*''(3) FEDERAL AGENCY.—The term 'Federal agency' means—*

*''(A) an Executive agency (as defined in section 105 of title 5, United States Code);*

*''(B) the United States Postal Service;*

*''(C) Congress and any other entity in the legislative branch; and*

*''(D) a Federal court and any other entity in the judicial branch.*

*''(b) ESTABLISHMENT OF BANK.—*

*''(1) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Federal Energy Bank', consisting of—*

*''(A) such amounts as are deposited in the Bank under paragraph (2);*

*''(B) such amounts as are repaid to the Bank under subsection (c)(2)(D); and*

*''(C) any interest earned on investment of amounts in the Bank under paragraph (3).*

*''(2) DEPOSITS IN BANK.—*

*''(A) IN GENERAL.—Subject to the availability of appropriations and to subparagraph (B), the Secretary of the Treasury shall deposit in the Bank an amount equal to $250,000,000 in fiscal year 2003 and in each fiscal year thereafter.*

*''(B) MAXIMUM AMOUNT IN BANK.—Deposits under subparagraph (A) shall cease beginning with the fiscal year following the fiscal year in which the amounts in the Bank (including amounts on loan from the Bank) become equal to or exceed $1,000,000,000.*

*''(3) INVESTMENT OF AMOUNTS.—The Secretary of the Treasury shall invest such portion of the Bank as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.*

*''(c) LOANS FROM THE BANK.—*

*''(1) IN GENERAL.—The Secretary of the Treasury shall transfer from the Bank to the Secretary such amounts as are appropriated to carry out the loan program under paragraph (2).*

*''(2) LOAN PROGRAM.—*

*''(A) ESTABLISHMENT.—*

*''(i) IN GENERAL.—In accordance with subsection (d), the Secretary, in consultation with the Secretary of Defense, the Administrator of General Services, and the Director of the Office of Management and Budget, shall establish a program to make loans of amounts in the Bank to any Federal agency that submits an application satisfactory to the Secretary in order to pay the costs of a project described in subparagraph (C).*

*''(ii) COMMENCEMENT OF OPERATIONS.—The Secretary may begin—*

*''(I) accepting applications for loans from the Bank in fiscal year 2002; and*

*''(II) making loans from the Bank in fiscal year 2003.*

*''(B) ENERGY SAVINGS PERFORMANCE CONTRACTING FUNDING.—To the extent practicable, an agency shall not submit a project for which energy performance contracting funding is available and is acceptable to the Federal agency under title VIII.*

*''(C) PURPOSES OF LOAN.—*

*''(i) IN GENERAL.—A loan from the Bank may be used to pay—*

*''(I) the costs of an energy or water efficiency project, or a renewable or alternative energy project, for a new or existing Federal building (including selection and design of the project);*

*''(II) the costs of an energy metering plan and metering equipment installed pursuant to section 543(e) or for the purpose of verification of the energy savings under an energy savings performance contract under title VIII; or*

*''(III) at the time of contracting, the costs of cofunding of an energy savings performance contract (including a utility energy service agreement) in order to shorten the payback period of the project that is the subject of the energy savings performance contract.*

''(ii) LIMITATION.—A Federal agency may use not more than 10 percent of the amount of a loan under subclause (I) or (II) of clause (i) to pay the costs of administration and proposal development (including data collection and energy surveys).

''(iii) RENEWABLE AND ALTERNATIVE ENERGY PROJECTS.—Not more than 25 percent of the amount on loan from the Bank at any time may be loaned for renewable energy and alternative energy projects (as defined by the Secretary in accordance with applicable law (including Executive Orders)).

''(D) REPAYMENTS.—

''(i) IN GENERAL.—Subject to clauses (ii) through (iv), a Federal agency shall repay to the Bank the principal amount of a loan plus interest at a rate determined by the President, in consultation with the Secretary and the Secretary of the Treasury.

''(ii) WAIVER OR REDUCTION OF INTEREST.—The Secretary may waive or reduce the rate of interest required to be paid under clause (i) if the Secretary determines that payment of interest by a Federal agency at the rate determined under that clause is not required to fund the operations of the Bank.

''(iii) DETERMINATION OF INTEREST RATE.—The interest rate determined under clause (i) shall be at a rate that is sufficient to ensure that, beginning not later than October 1, 2007, interest payments will be sufficient to fully fund the operations of the Bank.

''(iv) INSUFFICIENCY OF APPROPRIATIONS.—

''(I) REQUEST FOR APPROPRIATIONS.—As part of the budget request of the Federal agency for each fiscal year, the head of each Federal agency shall submit to the President a request for such amounts as are necessary to make such repayments as are expected to become due in the fiscal year under this subparagraph.

''(II) SUSPENSION OF REPAYMENT REQUIREMENT.—If, for any fiscal year, sufficient appropriations are not made available to a Federal agency to make repayments under this subparagraph, the Bank shall suspend the requirement of repayment under this subparagraph until such appropriations are made available.

''(E) FEDERAL AGENCY ENERGY BUDGETS.—Until a loan is repaid, a Federal agency budget submitted by the President to Congress for a fiscal year shall not be reduced by the value of energy savings accrued as a result of any energy conservation measure implemented using amounts from the Bank.

''(F) NO RESCISSION OR REPROGRAMMING.—A Federal agency shall not rescind or reprogram loan amounts made available from the Bank except as permitted under guidelines issued under subparagraph (G).

''(G) GUIDELINES.—The Secretary shall issue guidelines for implementation of the loan program under this paragraph, including selection criteria, maximum loan amounts, and loan repayment terms.

''(d) SELECTION CRITERIA.—

''(1) IN GENERAL.—The Secretary shall establish criteria for the selection of projects to be awarded loans in accordance with paragraph (2).

''(2) SELECTION CRITERIA.—

''(A) IN GENERAL.—The Secretary may make loans from the Bank only for a project that—

''(i) is technically feasible;

''(ii) is determined to be cost-effective using life cycle cost methods established by the Secretary;

''(iii) includes a measurement and management component, based on the measurement and verification protocols of the Department of Energy, to—

''(I) commission energy savings for new and existing Federal facilities;

''(II) monitor and improve energy efficiency management at existing Federal facilities; and

''(III) verify the energy savings under an energy savings performance contract under title VIII; and

''(iv)(I) in the case of a renewable energy or alternative energy project, has a simple payback period of not more than 15 years; and

''(II) in the case of any other project, has a simple payback period of not more than 10 years.

''(B) PRIORITY.—In selecting projects, the Secretary shall give priority to projects that—

''(i) are a component of a comprehensive energy management project for a Federal facility; and

''(ii) are designed to significantly reduce the energy use of the Federal facility.

''(e) REPORTS AND AUDITS.—

''(1) REPORTS TO THE SECRETARY.—Not later than 1 year after the completion of installation of a project that has a cost of more than $1,000,000, and annually thereafter, a Federal agency shall submit to the Secretary a report that—

''(A) states whether the project meets or fails to meet the energy savings projections for the project; and

''(B) for each project that fails to meet the energy savings projections, states the reasons for the failure and describes proposed remedies.

''(2) AUDITS.—The Secretary may audit, or require a Federal agency that receives a loan from the Bank to audit, any project financed with amounts from the Bank to assess the performance of the project.

''(3) REPORTS TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to Congress a report on the operations of the Bank, including a statement of—

''(A) the total receipts by the Bank;

''(B) the total amount of loans from the Bank to each Federal agency; and

''(C) the estimated cost and energy savings resulting from projects funded with loans from the Bank.

''(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.''.

**SEC. 919. ENERGY AND WATER SAVING MEASURES IN CONGRESSIONAL BUILDINGS.**

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act is amended by adding at the end:

**''SEC. 554. ENERGY AND WATER SAVINGS MEASURES IN CONGRESSIONAL BUILDINGS.**

''(a) IN GENERAL.—The Architect of the Capitol—

''(1) shall develop, update, and implement a cost-effective energy conservation and management plan (referred to in this section as the ''plan'') for all facilities administered by the Congress (referred to in this section as 'congressional buildings') to meet the energy performance requirements for Federal buildings established under section 543(a)(1); and

''(2) shall submit the plan to Congress, not later than 180 days after the date of enactment of this section.

''(b) PLAN REQUIREMENTS.—The plan shall include—

''(1) a description of the life-cycle cost analysis used to determine the cost-effectiveness of proposed energy efficiency projects;

''(2) a schedule of energy surveys to ensure complete surveys of all congressional buildings every 5 years to determine the cost and payback period of energy and water conservation measures;

''(3) a strategy for installation of life cycle cost effective energy and water conservation measures;

''(4) the results of a study of the costs and benefits of installation of submetering in congressional buildings; and

''(5) information packages and 'how-to' guides for each Member and employing authority of Congress that detail simple, cost-effective methods to save energy and taxpayer dollars in the workplace.

''(c) CONTRACTING AUTHORITY.—The Architect—

''(1) may contract with nongovernmental entities and use private sector capital to finance energy conservation projects and meet energy performance requirements; and

''(2) may use innovative contracting methods that will attract private sector funding for the installation of energy efficient and renewable energy technology, such as energy savings performance contracts described in title VIII.

''(d) CAPITOL VISITOR CENTER.—The Architect—

''(1) shall ensure that state-of-the-art energy efficiency and renewable energy technologies are used in the construction and design of the Visitor Center; and

''(2) shall include in the Visitor Center an exhibit on the energy efficiency and renewable energy measures used in congressional buildings.

''(e) ANNUAL REPORT.—The Architect shall submit to Congress annually a report on congressional energy management and conservation programs required under this section that describes in detail—

''(1) energy expenditures and savings estimates for each facility;

''(2) energy management and conservation projects; and

''(3) future priorities to ensure compliance with this section.''.

(b) REPEAL.—Section 310 of the Legislative Branch Appropriations Act, 1999 (40 U.S.C. 166i), is repealed.

**SEC. 920. INCREASED USE OF RECOVERED MATERIAL IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.**

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) AGENCY HEAD.—The term ''agency head'' means—

(A) the Secretary of Transportation; and

(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.

(3) 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.

(4) RECOVERED MATERIAL.—The term ''recovered material'' 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 material 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 Act, 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 Act (including guidelines under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6963)) that provide for the use of cement and concrete incorporating recovered material in cement or concrete projects.

(2) PRIORITY.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered material in cement or concrete projects for which recovered materials historically have not been used or have been used only minimally.

(c) FULL IMPLEMENTATION STUDY.—

*(1) IN GENERAL.—The Administrator and the Secretary of Transportation, in cooperation with the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and greenhouse gas emission reduction benefits attainable with substitution of recovered material in cement used in cement or concrete projects.*

*(2) MATTERS TO BE ADDRESSED.—The study shall—*

*(A) quantify the extent to which recovered materials are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and greenhouse gas emission reduction benefits associated with that substitution;*

*(B) identify all barriers in procurement requirements to fuller realization of energy savings and greenhouse gas emission reduction benefits, including barriers resulting from exceptions from current law; and*

*(C)(i) identify potential mechanisms to achieve greater substitution of recovered material in types of cement or concrete projects for which recovered materials 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 material in those cement or concrete projects; and*

*(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered material in those cement or concrete projects.*

*(3) REPORT.—Not later than 30 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Appropriations and Committee on Environment and Public Works of the Senate and the Committee on Appropriations and Committee on Energy and Commerce of the House of Representatives a report on the study.*

*(d) ADDITIONAL PROCUREMENT REQUIREMENTS.—Within 1 year of the release of the report in accordance with subsection (c)(3), the Administrator and each agency head shall take additional actions authorized under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered material in the construction and maintenance of cement or concrete projects, so as to—*

*(1) realize more fully the energy savings and greenhouse gas emission reduction benefits associated with increased substitution; and*

*(2) eliminate barriers identified under subsection (c).*

*(e) EFFECT OF SECTION.—Nothing in this section affects the requirements of section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962) (including the guidelines and specifications for implementing those requirements).*

### *Subtitle C—Industrial Efficiency and Consumer Products*

#### *SEC. 921. VOLUNTARY COMMITMENTS TO REDUCE INDUSTRIAL ENERGY INTENSITY.*

*(a) VOLUNTARY AGREEMENTS.—The Secretary of Energy shall enter into voluntary agreements with one or more persons in industrial sectors that consume significant amounts of primary energy per unit of physical output to reduce the energy intensity of their production activities.*

*(b) GOAL.—Voluntary agreements under this section shall have a goal of reducing energy intensity by not less than 2.5 percent each year from 2002 through 2012.*

*(c) RECOGNITION.—The Secretary of Energy, in cooperation with the Administrator of the Environmental Protection Agency and other appropriate Federal agencies, shall develop mechanisms to recognize and publicize the achievements of participants in voluntary agreements under this section.*

*(d) DEFINITION.—In this section, the term ''energy intensity'' means the primary energy consumed per unit of physical output in an industrial process.*

*(e) TECHNICAL ASSISTANCE.—An entity that enters into an agreement under this section and continues to make a good faith effort to achieve the energy efficiency goals specified in the agreement shall be eligible to receive from the Secretary a grant or technical assistance as appropriate to assist in the achievement of those goals.*

*(f) REPORT.—Not later than June 30, 2008 and June 30, 2012, the Secretary shall submit to Congress a report that evaluates the success of the voluntary agreements, with independent verification of a sample of the energy savings estimates provided by participating firms.*

#### *SEC. 922. AUTHORITY TO SET STANDARDS FOR COMMERCIAL PRODUCTS.*

*Part B of title III of the Energy Policy and Conservation Act (42 U.S.C. 6291 et seq.) is amended as follows:*

*(1) In the heading for such part, by inserting ''AND COMMERCIAL'' after ''CONSUMER''.*

*(2) In section 321(2), by inserting ''or commercial'' after ''consumer''.*

*(3) In paragraphs (4), (5), and (15) of section 321, by striking ''consumer'' each place it appears and inserting ''covered''.*

*(4) In section 322(a), by inserting ''or commercial'' after ''consumer'' the first place it appears in the material preceding paragraph (1).*

*(5) In section 322(b), by inserting ''or commercial'' after ''consumer'' each place it appears.*

*(6) In section 322 (b)(1)(B) and (b)(2)(A), by inserting ''or per-business in the case of a commercial product'' after ''per-household'' each place it appears.*

*(7) In section 322 (b)(2)(A), by inserting ''or businesses in the case of commercial products'' after ''households'' each place it appears.*

*(8) In section 322 (B)(2)(C)—*

*(A) by striking ''term'' and inserting ''terms''; and*

*(B) by inserting ''and 'business' '' after '' 'household' ''.*

*(9) In section 323 (b)(1) (B) by inserting ''or commercial'' after ''consumer''.*

#### *SEC. 923. ADDITIONAL DEFINITIONS.*

*Section 321 of the Energy Policy and Conservation Act (42 U.S.C. 6291) is amended by adding at the end the following:*

*''(32) The term 'battery charger' means a device that charges batteries for consumer products.*

*''(33) The term 'commercial refrigerator, freezer and refrigerator-freezer' means a refrigerator, freezer or refrigerator-freezer that—*

*''(A) is not a consumer product regulated under this Act; and*

*''(B) incorporates most components involved in the vapor-compression cycle and the refrigerated compartment in a single package.*

*''(34) The term 'external power supply' means an external power supply circuit that is used to convert household electric current into either DC current or lower-voltage AC current to operate a consumer product.*

*''(35) The term 'illuminated exit sign' means a sign that—*

*''(A) is designed to be permanently fixed in place to identify an exit; and*

*''(B) consists of—*

*''(i) an electrically powered integral light source that illuminates the legend 'EXIT' and any directional indicators; and*

*''(ii) provides contrast between the legend, any directional indicators, and the background.*

*''(36)(A) Except as provided in subsection (B), the term 'low-voltage dry-type transformer' means a transformer that—*

*''(i) has an input voltage of 600 volts or less;*

*''(ii) is air-cooled;*

*''(iii) does not use oil as a coolant; and*

*''(iv) is rated for operation at a frequency of 60 Hertz.*

*''(B) The term 'low-voltage dry-type transformer' does not include—*

*''(i) transformers with multiple voltage taps, with the highest voltage tap equaling at least 20 percent more than the lowest voltage tap;*

*''(ii) transformers that are designed to be used in a special purpose application, such as transformers commonly known as drive transformers, rectifier transformers, autotransformers, Uninterruptible Power System transformers, impedance transformers, harmonic transformers, regulating transformers, sealed and nonventilating transformers, machine tool transformers, welding transformers, grounding transformers, or testing transformers; or*

*''(iii) any transformer not listed in clause (ii) that is excluded by the Secretary by rule because the transformer is designed for a special application and the application of standards to the transformer would not result in significant energy savings.*

*''(37) The term 'standby mode' means the lowest amount of electric power used by a household appliance when not performing its active functions, as defined on an individual product basis by the Secretary.*

*''(38) The term 'torchiere' means a portable electric lamp with a reflector bowl that directs light upward so as to give indirect illumination.*

*''(39) The term 'transformer' means a device consisting of two or more coils of insulated wire that transfers alternating current by electromagnetic induction from one coil to another to change the original voltage or current value.*

*''(40) The term 'unit heater' means a self-contained fan-type heater designed to be installed within the heated space, except that such term does not include a warm air furnace.*

*''(41) The term 'traffic signal module' means a standard 8-inch (200mm) or 12-inch (300mm) traffic signal indication, consisting of a light source, a lens, and all other parts necessary for operation, that communicates movement messages to drivers through red, amber, and green colors.''.*

#### *SEC. 924. ADDITIONAL TEST PROCEDURES.*

*(a) EXIT SIGNS.—Section 323(b) of the Energy Policy and Conservation Act (42 U.S.C. 6293) is amended by adding at the end the following:*

*''(9) Test procedures for illuminated exit signs shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for illuminated exit signs, as in effect on the date of enactment of this paragraph.*

*''(10) Test procedures for low voltage dry-type distribution transformers shall be based on the 'Standard Test Method for Measuring the Energy Consumption of Distribution Transformers' prescribed by the National Electrical Manufacturers Association (NEMA TP 2–1998). The Secretary may review and revise this test procedure based on future revisions to such standard test method.*

*''(11) Test procedures for traffic signal modules shall be based on the test method used under the Energy Star program of the Environmental Protection Agency for traffic signal modules, as in effect on the date of enactment of this paragraph.''.*

*(b) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—Section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) is further amended by adding at the end the following:*

*''(f) ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.—The Secretary shall within 24 months after the date of enactment of this subsection prescribe testing requirements for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, commercial unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. Such testing requirements shall be based on existing test procedures used in industry to the extent practical and reasonable. In the case of suspended ceiling fans, such test procedures shall include efficiency at both maximum output and at an output no more than 50 percent of the maximum output.''.*

**SEC. 925. ENERGY LABELING.**

(a) RULEMAKING ON EFFECTIVENESS OF CONSUMER PRODUCT LABELING.—Paragraph (2) of section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)(2)) is amended by adding at the end the following:

''(F) Not later than 3 months after the date of enactment of this subparagraph, the Commission shall initiate a rulemaking to consider the effectiveness of the current consumer products labeling program in assisting consumers in making purchasing decisions and improving energy efficiency and to consider changes to the labeling rules that would improve the effectiveness of consumer product labels. Such rulemaking shall be completed within 15 months of the date of enactment of this subparagraph.''.

(b) RULEMAKING ON LABELING FOR ADDITIONAL PRODUCTS.—Section 324(a) of the Energy Policy and Conservation Act (42 U.S.C. 6294(a)) is further amended by adding at the end the following:

''(5) The Secretary shall within 6 months after the date on which energy conservation standards are prescribed by the Secretary for covered products referred to in subsections (u) and (v) of section 325, and within 18 months of enactment of this paragraph for products referred to in subsections (w) through (y) of section 325, prescribe, by rule, labeling requirements for such products. Labeling requirements adopted under this paragraph shall take effect on the same date as the standards set pursuant to sections 325 (v) through (y).''.

**SEC. 926. ENERGY STAR PROGRAM.**

The Energy Policy and Conservation Act (42 U.S.C. 6201 and following) is amended by inserting after section 324 the following:

''ENERGY STAR PROGRAM

''SEC. 324A. There is established at the Department of Energy and the Environmental Protection Agency a program to identify and promote energy-efficient products and buildings in order to reduce energy consumption, improve energy security, and reduce pollution through labeling of products and buildings that meet the highest energy efficiency standards. Responsibilities under the program shall be divided between the Department of Energy and the Environmental Protection Agency consistent with the terms of agreements between the two agencies. The Administrator and the Secretary shall—

''(1) promote Energy Star compliant technologies as the preferred technologies in the marketplace for achieving energy efficiency and to reduce pollution;

''(2) work to enhance public awareness of the Energy Star label, including special outreach to small businesses;

''(3) preserve the integrity of the Energy Star label; and

''(4) solicit the comments of interested parties in establishing a new Energy Star product category or in revising a product category, and upon adoption of a new or revised product category provide an explanation of the decision that responds to significant public comments.''.

**SEC. 927. ENERGY CONSERVATION STANDARDS FOR CENTRAL AIR CONDITIONERS AND HEAT PUMPS.**

Section 325(d)(3) of the Energy Policy and Conservation Act (42 U.S.C. 6295(d)) is amended by adding at the end the following:

''(C) REVISION OF STANDARDS.—Not later than 60 days after the date of enactment of this subparagraph, the Secretary shall amend the standards established under paragraph (1).''.

**SEC. 928. ENERGY CONSERVATION STANDARDS FOR ADDITIONAL CONSUMER AND COMMERCIAL PRODUCTS.**

Section 325 of the Energy Policy and Conservation Act (42 U.S.C. 6295) is amended by adding at the end the following:

''(u) STANDBY MODE ELECTRIC ENERGY CONSUMPTION.—

''(1) INITIAL RULEMAKING.—(A) The Secretary shall, within 18 months after the date of enactment of this subsection, prescribe by notice and comment, definitions of standby mode and test procedures for the standby mode power use of battery chargers and external power supplies. In establishing these test procedures, the Secretary shall consider, among other factors, existing test procedures used for measuring energy consumption in standby mode and assess the current and projected future market for battery chargers and external power supplies. This assessment shall include estimates of the significance of potential energy savings from technical improvements to these products and suggested product classes for standards. Prior to the end of this time period, the Secretary shall hold a scoping workshop to discuss and receive comments on plans for developing energy conservation standards for standby mode energy use for these products.

''(B) The Secretary shall, within 3 years after the date of enactment of this subsection, issue a final rule that determines whether energy conservation standards shall be promulgated for battery chargers and external power supplies or classes thereof. For each product class, any such standards shall be set at the lowest level of standby energy use that—

''(i) meets the criteria of subsections (o), (p), (q), (r), (s) and (t); and

''(ii) will result in significant overall annual energy savings, considering both standby mode and other operating modes.

''(2) DESIGNATION OF ADDITIONAL COVERED PRODUCTS.—(A) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish for public comment and public hearing a notice to determine whether any noncovered products should be designated as covered products for the purpose of instituting a rulemaking under this section to determine whether an energy conservation standard restricting standby mode energy consumption, should be promulgated; providing that any restriction on standby mode energy consumption shall be limited to major sources of such consumption.

''(B) In making the determinations pursuant to subparagraph (A) of whether to designate new covered products and institute rulemakings, the Secretary shall, among other relevant factors and in addition to the criteria in section 322(b), consider—

''(i) standby mode power consumption compared to overall product energy consumption; and

''(ii) the priority and energy savings potential of standards which may be promulgated under this subsection compared to other required rulemakings under this section and the available resources of the Department to conduct such rulemakings.

''(C) Not later than 1 year after the date of enactment of this subsection, the Secretary shall issue a determination of any new covered products for which he intends to institute rulemakings on standby mode pursuant to this section and he shall state the dates by which he intends to initiate those rulemakings.

''(3) REVIEW OF STANDBY ENERGY USE IN COVERED PRODUCTS.—In determining pursuant to section 323 whether test procedures and energy conservation standards pursuant to section 325 should be revised, the Secretary shall consider for covered products which are major sources of standby mode energy consumption whether to incorporate standby mode into such test procedures and energy conservation standards, taking into account, among other relevant factors, the criteria for non-covered products in subparagraph (B) of this subsection.

''(4) RULEMAKING FOR STANDBY MODE.—(A) Any rulemaking instituted under this subsection or for covered products under this section which restricts standby mode power consumption shall be subject to the criteria and procedures for issuing energy conservation standards set forth in section 325 and the criteria set forth in paragraph 2(B) of this subsection.

''(B) No standard can be proposed for new covered products or covered products in a standby mode unless the Secretary has promulgated applicable test procedures for each product pursuant to section 323.

''(C) The provisions of section 327 shall apply to new covered products which are subject to the rulemakings for standby mode after a final rule has been issued.

''(5) EFFECTIVE DATE.—Any standard promulgated under this subsection shall be applicable to products manufactured or imported 3 years after the date of promulgation.

''(6) VOLUNTARY PROGRAMS TO REDUCE STANDBY MODE ENERGY USE.—The Secretary and the Administrator shall collaborate and develop programs, including programs pursuant to section 324A and other voluntary industry agreements or codes of conduct, which are designed to reduce standby mode energy use.

''(v) SUSPENDED CEILING FANS, VENDING MACHINES, UNIT HEATERS, AND COMMERCIAL REFRIGERATORS, FREEZERS AND REFRIGERATOR-FREEZERS.—The Secretary shall within 24 months after the date on which testing requirements are prescribed by the Secretary pursuant to section 323(f), prescribe, by rule, energy conservation standards for suspended ceiling fans, refrigerated bottled or canned beverage vending machines, unit heaters, and commercial refrigerators, freezers and refrigerator-freezers. In establishing standards under this subsection, the Secretary shall use the criteria and procedures contained in subsections (l) and (m). Any standard prescribed under this subsection shall apply to products manufactured 3 years after the date of publication of a final rule establishing such standard.

''(w) ILLUMINATED EXIT SIGNS.—Illuminated exit signs manufactured on or after January 1, 2005 shall meet the Energy Star Program performance requirements for illuminated exit signs prescribed by the Environmental Protection Agency as in effect on the date of enactment of this subsection.

''(x) TORCHIERES.—Torchieres manufactured on or after January 1, 2005—

''(1) shall consume not more than 190 watts of power; and

''(2) shall not be capable of operating with lamps that total more than 190 watts.

''(y) LOW VOLTAGE DRY-TYPE TRANSFORMERS.—The efficiency of low voltage dry-type transformers manufactured on or after January 1, 2005 shall be the Class I Efficiency Levels for low voltage dry-type transformers specified in Table 4–2 of the 'Guide for Determining Energy Efficiency for Distribution Transformers' published by the National Electrical Manufacturers Association (NEMA TP–1–1996).

''(z) TRAFFIC SIGNAL MODULES.—Traffic signal modules manufactured on or after January 1, 2006 shall meet the performance requirements used under the Energy Star program of the Environmental Protection Agency for traffic signals, as in effect on the date of enactment of this paragraph, and shall be installed with compatible, electrically-connected signal control interface devices and conflict monitoring systems.''.

**SEC. 929. CONSUMER EDUCATION ON ENERGY EFFICIENCY BENEFITS OF AIR CONDITIONING, HEATING, AND VENTILATION MAINTENANCE.**

Section 337 of the Energy Policy and Conservation Act (42 U.S.C. 6307) is amended by adding at the end the following:

''(c) HVAC MAINTENANCE.—(1) For the purpose of ensuring that installed air conditioning and heating systems operate at their maximum rated efficiency levels, the Secretary shall, within 180 days of the date of enactment of this subsection, carry out a program to educate homeowners and small business owners concerning the energy savings resulting from properly conducted maintenance of air conditioning, heating, and ventilating systems.

''(2) The Secretary may carry out the program in cooperation with industry trade associations, industry members, and energy efficiency organizations.

''(d) SMALL BUSINESS EDUCATION AND ASSISTANCE.—The Administrator of the Small Business Administration, in consultation with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall develop and coordinate a Government-wide program, building on the existing Energy Star for Small Business Program, to assist small business to become more energy efficient, understand the cost savings obtainable through efficiencies, and identify financing options for energy efficiency upgrades. The Secretary and the Administrator shall make the program information available directly to small businesses and through other Federal agencies, including the Federal Emergency Management Agency, and the Department of Agriculture.''.

**SEC. 930. STUDY OF ENERGY EFFICIENCY STANDARDS.**

The Secretary of Energy shall contract with the National Academy of Sciences for a study, to be completed within 1 year of enactment of this Act, to examine whether the goals of energy efficiency standards are best served by measurement of energy consumed, and efficiency improvements, at the actual site of energy consumption, or through the full fuel cycle, beginning at the source of energy production. The Secretary shall submit the report to the Congress.

**Subtitle D—Housing Efficiency**

**SEC. 931. CAPACITY BUILDING FOR ENERGY EFFICIENT, AFFORDABLE HOUSING.**

Section 4(b) of the HUD Demonstration Act of 1993 (42 U.S.C. 9816 note) is amended—

(1) in paragraph (1), by inserting before the semicolon at the end the following: '', including capabilities regarding the provision of energy efficient, affordable housing and residential energy conservation measures''; and

(2) in paragraph (2), by inserting before the semicolon the following: '', including such activities relating to the provision of energy efficient, affordable housing and residential energy conservation measures that benefit low-income families''.

**SEC. 932. INCREASE OF CDBG PUBLIC SERVICES CAP FOR ENERGY CONSERVATION AND EFFICIENCY ACTIVITIES.**

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended—

(1) by inserting ''or efficiency'' after ''energy conservation'';

(2) by striking '', and except that'' and inserting ''; except that''; and

(3) by inserting before the period at the end the following: ''; and except that each percentage limitation under this paragraph on the amount of assistance provided under this title that may be used for the provision of public services is hereby increased by 10 percent, but such percentage increase may be used only for the provision of public services concerning energy conservation or efficiency''.

**SEC. 933. FHA MORTGAGE INSURANCE INCENTIVES FOR ENERGY EFFICIENT HOUSING.**

(a) SINGLE FAMILY HOUSING MORTGAGE INSURANCE.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended, in the first undesignated paragraph beginning after subparagraph (B)(iii) (relating to solar energy systems)—

(1) by inserting ''or paragraph (10)''; and

(2) by striking ''20 percent'' and inserting ''30 percent''.

(b) MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 207(c) of the National Housing Act (12 U.S.C. 1713(c)) is amended, in the second undesignated paragraph beginning after paragraph (3) (relating to solar energy systems and residential energy conservation measures), by striking ''20 percent'' and inserting ''30 percent''.

(c) COOPERATIVE HOUSING MORTGAGE INSURANCE.—Section 213(p) of the National Housing Act (12 U.S.C. 1715e(p)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(d) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING MORTGAGE INSURANCE.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(e) LOW-INCOME MULTIFAMILY HOUSING MORTGAGE INSURANCE.—Section 221(k) of the National Housing Act (12 U.S.C. 1715l(k)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(f) ELDERLY HOUSING MORTGAGE INSURANCE.—The proviso at the end of section 213(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

(g) CONDOMINIUM HOUSING MORTGAGE INSURANCE.—Section 234(j) of the National Housing Act (12 U.S.C. 1715y(j)) is amended by striking ''20 per centum'' and inserting ''30 percent''.

**SEC. 934. PUBLIC HOUSING CAPITAL FUND.**

Section 9(d)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437g(d)(1)) is amended—

(1) in subparagraph (I), by striking ''and'' at the end;

(2) in subparagraph (K), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(L) improvement of energy and water-use efficiency by installing fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation, and by increasing energy efficiency and water conservation by such other means as the Secretary determines are appropriate.''.

**SEC. 935. GRANTS FOR ENERGY-CONSERVING IMPROVEMENTS FOR ASSISTED HOUSING.**

Section 251(b)(1) of the National Energy Conservation Policy Act (42 U.S.C. 8231(1)) is amended—

(1) by striking ''financed with loans'' and inserting ''assisted'';

(2) by inserting after ''1959,'' the following: ''which are eligible multifamily housing projects (as such term is defined in section 512 of the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) and are subject to a mortgage restructuring and rental assistance sufficiency plans under such Act,''; and

(3) by inserting after the period at the end of the first sentence the following new sentence: ''Such improvements may also include the installation of energy and water conserving fixtures and fittings that conform to the American Society of Mechanical Engineers/American National Standards Institute standards A112.19.2–1998 and A112.18.1–2000, or any revision thereto, applicable at the time of installation.''.

**SEC. 936. NORTH AMERICAN DEVELOPMENT BANK.**

Part 2 of subtitle D of title V of the North American Free Trade Agreement Implementation Act (22 U.S.C. 290m–290m–3) is amended by adding at the end the following:

**''SEC. 545. SUPPORT FOR CERTAIN ENERGY POLICIES.**

''Consistent with the focus of the Bank's Charter on environmental infrastructure projects, the Board members representing the United States should use their voice and vote to encourage the Bank to finance projects related to clean and efficient energy, including energy conservation, that prevent, control, or reduce environmental pollutants or contaminants.''.

**SEC. 937. CAPITAL FUND.**

Section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g), as amended by section 934, is amended—

(1) in subsection (d)(1)—

(A) in subparagraph (L), by striking the period at the end and inserting ''; and'';

(B) by redesignating subparagraph (L) as subparagraph (K); and

(C) by adding at the end the following:

''(L) integrated utility management and capital planning to maximize energy conservation and efficiency measures.''; and

(2) in subsection (e)(2)(C)—

(A) by striking ''The'' and inserting the following:

''(i) IN GENERAL.—The''; and

(B) by adding at the end the following:

''(ii) THIRD PARTY CONTRACTS.—Contracts described in clause (i) may include contracts for equipment conversions to less costly utility sources, projects with resident paid utilities, 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 be for not more than 20 years to allow longer payback periods for retrofits, including but not limited to windows, heating system replacements, wall insulation, site-based generations, and advanced energy savings technologies, including renewable energy generation.''.

**SEC. 938. ENERGY-EFFICIENT APPLIANCES.**

A public housing agency shall purchase energy-efficient appliances that are Energy Star products as defined in section 552 of the National Energy Policy and Conservation Act (as amended by this Act) when the purchase of energy-efficient appliances is cost-effective to the public housing agency.

**SEC. 939. 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 ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002'';

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

(iii) in subparagraph (B), by striking the period at the end and inserting a semi-colon; 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), by striking ''Council of American'' and all that follows through ''lifecycle cost basis'' and inserting ''2000 International Energy Conservation Code'';

(2) in subsection (b)—

(A) by striking ''the date of the enactment of the Energy Policy Act of 1992'' and inserting ''September 30, 2002''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''; and

(3) in subsection (c)—

(A) in the heading, by striking ''MODEL ENERGY CODE'' and inserting ''THE INTERNATIONAL ENERGY CONSERVATION CODE''; and

(B) by striking ''CABO'' and all that follows through ''1989'' and inserting ''the 2000 International Energy Conservation Code''.

**SEC. 940. ENERGY STRATEGY FOR HUD.**

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and implement an integrated strategy to reduce utility expenses through cost-effective energy conservation and efficiency measures, design and construction in public and assisted housing.

(b) ENERGY MANAGEMENT OFFICE.—The Secretary of Housing and Urban Development shall create an office at the Department of Housing and Urban Development for utility management,

*energy efficiency, and conservation, with responsibility for implementing the strategy developed under this section, including development of a centralized database that monitors public housing energy usage, and development of energy reduction goals and incentives for public housing agencies. The Secretary shall submit an annual report to Congress on the strategy.*

***Subtitle E—Rural and Remote Communities***

***SEC. 941. SHORT TITLE.***

*This subtitle may be cited as the ''Rural and Remote Community Fairness Act''.*

***SEC. 942. FINDINGS AND PURPOSE.***

*(a) FINDINGS.—The Congress finds that—*

*(1) a modern infrastructure, including energy-efficient housing, electricity, telecommunications, bulk fuel, wastewater and potable water service, is a necessary ingredient of a modern society and development of a prosperous economy;*

*(2) the Nation's rural and remote communities face critical social, economic and environmental problems, arising in significant measure from the high cost of infrastructure development in sparsely populated and remote areas, that are not adequately addressed by existing Federal assistance programs;*

*(3) in the past, Federal assistance has been instrumental in establishing electric and other utility service in many developing regions of the Nation, and that Federal assistance continues to be appropriate to ensure that electric and other utility systems in rural areas conform with modern standards of safety, reliability, efficiency and environmental protection; and*

*(4) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural and remote communities as social, economic and political entities.*

*(b) PURPOSE.—The purpose of this subtitle is the development and maintenance of viable rural and remote communities through the provision of efficient housing, and reasonably priced and environmentally sound energy, water, wastewater, and bulk fuel, telecommunications and utility services to those communities that do not have those services or who currently bear costs of those services that are significantly above the national average.*

***SEC. 943. DEFINITIONS.***

*As used in this subtitle:*

*(1) The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized) or other general purpose political subdivision of a State, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, the Virgin Islands, and American Samoa, a combination of such political subdivisions that is recognized by the Secretary; and the District of Columbia; or any other appropriate organization of citizens of a rural and remote community that the Secretary may identify.*

*(2) The term ''population'' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.*

*(3) The term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.*

*(4) The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.*

*(5) The term ''rural and remote community'' means a unit of local general government or Native American group which is served by an electric utility that has 10,000 or less customers with an average retail cost per kilowatt hour of electricity that is equal to or greater than 150 percent of the average retail cost per kilowatt hour of electricity for all consumers in the United States, as determined by data provided by the Energy Information Administration of the Department of Energy.*

*(6) The term ''alternative energy sources'' include nontraditional means of providing electrical energy, including, but not limited to, wind, solar, biomass, municipal solid waste, hydroelectric, geothermal and tidal power.*

*(7) The term ''average retail cost per kilowatt hour of electricity'' has the same meaning as ''average revenue per kilowatt hour of electricity'' as defined by the Energy Information Administration of the Department of Energy.*

***SEC. 944. AUTHORIZATION OF APPROPRIATIONS.***

*The Secretary is authorized to make grants to rural and remote communities to carry out activities in accordance with the provisions of this subtitle. For purposes of assistance under section 947, there are authorized to be appropriated $100,000,000 for each of fiscal years 2003 through 2009.*

***SEC. 945. STATEMENT OF ACTIVITIES AND REVIEW.***

*(a) STATEMENT OF OBJECTIVES AND PROJECTED USE.—Prior to the receipt in any fiscal year of a grant under section 947 by any rural and remote community, the grantee shall have prepared and submitted to the Secretary of the agency providing funding a final statement of rural and remote community development objectives and projected use of funds.*

*(b) PUBLIC NOTICE.—In order to permit public examination and appraisal of such statements, to enhance the public accountability of grantees, and to facilitate coordination of activities with different levels of government, the grantee shall in a timely manner—*

*(1) furnish citizens information concerning the amount of funds available for rural and remote community development activities and the range of activities that may be undertaken;*

*(2) publish a proposed statement in such manner to afford affected citizens an opportunity to examine its content and to submit comments on the proposed statement and on the community development performance of the grantee;*

*(3) provide citizens with reasonable access to records regarding the past use of funds received under section 947 by the grantee; and*

*(4) provide citizens with reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of funds received under section 947 from one eligible activity to another.*

*The final statement shall be made available to the public, and a copy shall be furnished to the appropriate Secretary. Any final statement of activities may be modified or amended from time to time by the grantee in accordance with the same. Procedures required in this paragraph are for the preparation and submission of such statement.*

*(c) PERFORMANCE AND EVALUATION REPORT.—Each grantee shall submit to the appropriate Secretary, at a time determined by the Secretary, a performance and evaluation report, concerning the use of funds made available under section 947, together with an assessment by the grantee of the relationship of such use to the objectives identified in the grantee's statement under subsection (a) and to the requirements of subsection (b). The grantee's report shall indicate its programmatic accomplishments, the nature of and reasons for any changes in the grantee's program objectives, and indications of how the grantee would change its programs as a result of its experiences.*

*(d) RETENTION OF INCOME.—*

*(1) IN GENERAL.—Any rural and remote community may retain any program income that is realized from any grant made by the Secretary under section 947 if—*

*(A) such income was realized after the initial disbursement of the funds received by such unit of general local government under such section; and*

*(B) such unit of general local government has agreed that it will utilize the program income for eligible rural and remote community development activities in accordance with the provisions of this title.*

*(2) EXCEPTION.—The Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with the subsection creates an unreasonable administrative burden on the rural and remote community.*

***SEC. 946. ELIGIBLE ACTIVITIES.***

*(a) ACTIVITIES INCLUDED.—Eligible activities assisted under this subtitle may include only—*

*(1) weatherization and other cost-effective energy-related repairs of homes and other buildings;*

*(2) the acquisition, construction, repair, reconstruction, or installation of reliable and cost-efficient facilities for the generation, transmission or distribution of electricity, and telecommunications, for consumption in a rural and remote community or communities;*

*(3) the acquisition, construction, repair, reconstruction, remediation or installation of facilities for the safe storage and efficient management of bulk fuel by rural and remote communities, and facilities for the distribution of such fuel to consumers in a rural or remote community;*

*(4) facilities and training to reduce costs of maintaining and operating generation, distribution or transmission systems to a rural and remote community or communities;*

*(5) the institution of professional management and maintenance services for electricity generation, transmission or distribution to a rural and remote community or communities;*

*(6) the investigation of the feasibility of alternate energy sources for a rural and remote community or communities;*

*(7) acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water or wastewater service;*

*(8) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for eligible rural and remote community development activities; and*

*(9) activities necessary to develop and implement a comprehensive rural and remote development plan, including payment of reasonable administrative costs related to planning and execution of rural and remote community development activities.*

*(b) ACTIVITIES UNDERTAKEN THROUGH ELECTRIC UTILITIES.—Eligible activities may be undertaken either directly by the rural and remote community, or by the rural and remote community through local electric utilities.*

***SEC. 947. ALLOCATION AND DISTRIBUTION OF FUNDS.***

*For each fiscal year, of the amount approved in an appropriation Act under section 903 for grants in any year, the Secretary shall distribute to each rural and remote community which has filed a final statement of rural and remote community development objectives and projected use of funds under section 945, an amount which shall be allocated among the rural and remote communities that filed a final statement of rural and remote community development objectives and projected use of funds under section 945 proportionate to the percentage that the average retail price per kilowatt hour of electricity for all classes of consumers in the rural and remote community exceeds the national average retail price per kilowatt hour for electricity for all consumers in the United States, as determined by data provided by the Department of Energy's Energy Information Administration. In allocating funds under this section, the Secretary shall give special consideration to those rural and remote communities*

*that increase economies of scale through consolidation of services, affiliation and regionalization of eligible activities under this title.*

***SEC. 948. RURAL AND REMOTE COMMUNITY ELECTRIFICATION GRANTS.***

*Section 313 of the Rural Electrification Act of 1936 (7 U.S.C. 940c) is amended by adding after subsection (b) the following:*

*''(c) RURAL AND REMOTE COMMUNITIES ELECTRIFICATION GRANTS.—The Secretary of Agriculture, in consultation with the Secretary of Energy and the Secretary of the Interior, may provide grants under this Act for the purpose of increasing energy efficiency, siting or upgrading transmission and distribution lines, or providing or modernizing electric facilities to—*

*''(1) a unit of local government of a State or territory; or*

*''(2) an Indian tribe or Tribal College or University as defined in section 316(b)(3) of the Higher Education Act (20 U.S.C. 1059c(b)(3)).*

*''(d) GRANT CRITERIA.—The Secretary shall make grants based on a determination of cost-effectiveness and most effective use of the funds to achieve the stated purposes of this section.*

*''(e) PREFERENCE.—In making grants under this section, the Secretary shall give a preference to renewable energy facilities.*

*''(f) DEFINITION.—For purposes of this section, the term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.*

*''(e) AUTHORIZATION.—For the purpose of carrying out subsection (c), there are authorized to be appropriated to the Secretary $20,000,000 for each of the 7 fiscal years following the date of enactment of this subsection.''.*

***SEC. 949. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.***

*There is hereby authorized to be appropriated $5,000,000 for each of fiscal years 2003 through 2009 to the Denali Commission established by the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for the purposes of funding the power cost equalization program.*

***SEC. 950. RURAL RECOVERY COMMUNITY DEVELOPMENT BLOCK GRANTS.***

*(a) FINDINGS; PURPOSE.—*

*(1) FINDINGS.—Congress finds that—*

*(A) a modern infrastructure, including affordable housing, wastewater and water service, and advanced technology capabilities is a necessary ingredient of a modern society and development of a prosperous economy with minimal environmental impacts;*

*(B) the Nation's rural areas face critical social, economic, and environmental problems, arising in significant measure from the growing cost of infrastructure development in rural areas that suffer from low per capita income and high rates of outmigration and are not adequately addressed by existing Federal assistance programs; and*

*(C) the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable rural areas as social, economic, and political entities.*

*(2) PURPOSE.—The purpose of this section is to provide for the development and maintenance of viable rural areas through the provision of affordable housing and community development assistance to eligible units of general local government and eligible Native American groups in rural areas with excessively high rates of outmigration and low per capita income levels.*

*(b) DEFINITIONS.—In this section:*

*(1) ELIGIBLE UNIT OF GENERAL LOCAL GOVERNMENT.—The term ''eligible unit of general local government'' means a unit of general local government that is the governing body of a rural recovery area.*

*(2) ELIGIBLE INDIAN TRIBE.—The term ''eligible Indian tribe'' means the governing body of an Indian tribe that is located in a rural recovery area.*

*(3) GRANTEE.—The term ''grantee'' means an eligible unit of general local government or eligible Indian tribe that receives a grant under this section.*

*(4) NATIVE AMERICAN GROUP.—The term ''Native American group'' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93–638) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.*

*(5) RURAL RECOVERY AREA.—The term ''rural recovery area'' means any geographic area represented by a unit of general local government or a Native American group—*

*(A) the borders of which are not adjacent to a metropolitan area;*

*(B) in which—*

*(i) the population outmigration level equals or exceeds 1 percent over the most recent 5 year period, as determined by the Secretary of Housing and Urban Development; and*

*(ii) the per capita income is less than that of the national nonmetropolitan average; and*

*(C) that does not include a city with a population of more than 15,000.*

*(6) UNIT OF GENERAL LOCAL GOVERNMENT.—*

*(A) IN GENERAL.—The term ''unit of general local government'' means any city, county, town, township, parish, village, borough (organized or unorganized), or other general purpose political subdivision of a State; Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Puerto Rico, and American Samoa, or a general purpose political subdivision thereof; a combination of such political subdivisions that, except as provided in section 106(d)(4), is recognized by the Secretary; and the District of Columbia.*

*(B) OTHER ENTITIES INCLUDED.—The term also includes a State or a local public body or agency, community association, or other entity, that is approved by the Secretary for the purpose of providing public facilities or services to a new community.*

*(7) SECRETARY.—The term ''Secretary'' means the Secretary of Housing and Urban Development, the Secretary of Agriculture, the Secretary of the Interior or the Secretary of Energy, as appropriate.*

*(c) GRANT AUTHORITY.—The Secretary may make grants in accordance with this section to eligible units of general local government, Native American groups and eligible Indian tribes that meet the requirements of subsection (d) to carry out eligible activities described in subsection (f).*

*(d) ELIGIBILITY REQUIREMENTS.—*

*(1) STATEMENT OF RURAL DEVELOPMENT OBJECTIVES.—In order to receive a grant under this section for a fiscal year, an eligible unit of general local government, Native American group or eligible Indian tribe—*

*(A) shall—*

*(i) publish a proposed statement of rural development objectives and a description of the proposed eligible activities described in subsection (f) for which the grant will be used; and*

*(ii) afford residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe with an opportunity to examine the contents of the proposed statement and the proposed eligible activities published under clause (i), and to submit comments to the eligible unit of general local government, Native American group or eligible Indian tribe, as applicable, on the proposed statement and the proposed eligible activities, and the overall community development performance of the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable; and*

*(B) based on any comments received under subparagraph (A)(ii), prepare and submit to the Secretary—*

*(i) a final statement of rural development objectives;*

*(ii) a description of the eligible activities described in subsection (f) for which a grant received under this section will be used; and*

*(iii) a certification that the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, will comply with the requirements of paragraph (2).*

*(2) PUBLIC NOTICE AND COMMENT.—In order to enhance public accountability and facilitate the coordination of activities among different levels of government, an eligible unit of general local government, Native American groups or eligible Indian tribe that receives a grant under this section shall, as soon as practicable after such receipt, provide the residents of the rural recovery area served by the eligible unit of general local government, Native American groups or eligible Indian tribe, as applicable, with—*

*(A) a copy of the final statement submitted under paragraph (1)(B);*

*(B) information concerning the amount made available under this section and the eligible activities to be undertaken with that amount;*

*(C) reasonable access to records regarding the use of any amounts received by the eligible unit of general local government, Native American groups or eligible Indian tribe under this section in any preceding fiscal year; and*

*(D) reasonable notice of, and opportunity to comment on, any substantial change proposed to be made in the use of amounts received under this section from one eligible activity to another.*

*(e) DISTRIBUTION OF GRANTS.—*

*(1) IN GENERAL.—In each fiscal year, the Secretary shall distribute to each eligible unit of general local government, Native American groups and eligible Indian tribe that meets the requirements of subsection (d)(1) a grant in an amount described in paragraph (2).*

*(2) AMOUNT.—Of the total amount made available to carry out this section in each fiscal year, the Secretary shall distribute to each grantee the amount equal to the greater of—*

*(A) the pro rata share of the grantee, as determined by the Secretary, based on the combined annual population outmigration level (as determined by the Secretary of Housing and Urban Development) and the per capita income for the rural recovery area served by the grantee; or*

*(B) $200,000.*

*(f) ELIGIBLE ACTIVITIES.—Each grantee shall use amounts received under this section for one or more of the following eligible activities, which may be undertaken either directly by the grantee, or by any local economic development corporation, regional planning district, nonprofit community development corporation, or statewide development organization authorized by the grantee—*

*(1) the acquisition, construction, repair, reconstruction, operation, maintenance, or installation of facilities for water and wastewater service or any other infrastructure needs determined to be critical to the further development or improvement of a designated industrial park;*

*(2) the acquisition or disposition of real property (including air rights, water rights, and other interests therein) for rural community development activities;*

*(3) the development of telecommunications infrastructure within a designated industrial park that encourages high technology business development in rural areas;*

*(4) activities necessary to develop and implement a comprehensive rural development plan, including payment of reasonable administrative costs related to planning and execution of rural development activities; or*

*(5) affordable housing initiatives.*

*(g) PERFORMANCE AND EVALUATION REPORT.—*

*(1) IN GENERAL.—Each grantee shall annually submit to the appropriate Secretary a performance and evaluation report, concerning the use of amounts received under this section.*

*(2) CONTENTS.—Each report submitted under paragraph (1) shall include a description of—*

*(A) the eligible activities carried out by the grantee with amounts received under this section, and the degree to which the grantee has achieved the rural development objectives included in the final statement submitted under subsection (d)(1);*

*(B) the nature of and reasons for any change in the rural development objectives or the eligible activities of the grantee after submission of the final statement under subsection (d)(1); and*

*(C) any manner in which the grantee would change the rural development objectives of the grantee as a result of the experience of the grantee in administering amounts received under this section.*

*(h) RETENTION OF INCOME.—A grantee may retain any income that is realized from the grant, if—*

*(1) the income was realized after the initial disbursement of amounts to the grantee under this section; and*

*(2) the—*

*(A) grantee agrees to utilize the income for one or more eligible activities; or*

*(B) amount of the income is determined by the Secretary to be so small that compliance with subparagraph (A) would create an unreasonable administrative burden on the grantee.*

*(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000,000 for each of fiscal years 2003 through 2009.*

## *DIVISION D—INTEGRATION OF ENERGY POLICY AND CLIMATE CHANGE POLICY*

## *TITLE X—NATIONAL CLIMATE CHANGE POLICY*

### *Subtitle A—Sense of Congress*

**SEC. 1001. SENSE OF CONGRESS ON CLIMATE CHANGE.**

*(a) FINDINGS.—The Congress makes the following findings:*

*(1) Evidence continues to build that increases in atmospheric concentrations of man-made greenhouse gases are contributing to global climate change.*

*(2) The Intergovernmental Panel on Climate Change (IPCC) has concluded that ''there is new and stronger evidence that most of the warming observed over the last 50 years is attributable to human activities'' and that the Earth's average temperature can be expected to rise between 2.5 and 10.4 degrees Fahrenheit in this century.*

*(3) The National Academy of Sciences confirmed the findings of the IPCC, stating that ''the IPCC's conclusion that most of the observed warming of the last 50 years is likely to have been due to the increase of greenhouse gas concentrations accurately reflects the current thinking of the scientific community on this issue'' and that ''there is general agreement that the observed warming is real and particularly strong within the past twenty years''. The National Academy of Sciences also noted that ''because there is considerable uncertainty in current understanding of how the climate system varies naturally and reacts to emissions of greenhouse gases and aerosols, current estimates of the magnitude of future warming should be regarded as tentative and subject to future adjustments upward or downward''.*

*(4) The IPCC has stated that in the last 40 years, the global average sea level has risen, ocean heat content has increased, and snow cover and ice extent have decreased, which threatens to inundate low-lying island nations and coastal regions throughout the world.*

*(5) In October 2000, a United States Government report found that global climate change may harm the United States by altering crop yields, accelerating sea-level rise, and increasing the spread of tropical infectious diseases.*

*(6) In 1992, the United States ratified the United Nations Framework Convention on Climate Change (UNFCCC), the ultimate objective of which is the ''stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner''.*

*(7) The UNFCCC stated in part that the Parties to the Convention are to implement policies ''with the aim of returning . . . to their 1990 levels anthropogenic emissions of carbon dioxide and other greenhouse gases'' under the principle that ''policies and measures . . . should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change''.*

*(8) There is a shared international responsibility to address this problem, as industrial nations are the largest historic and current emitters of greenhouse gases and developing nations' emissions will significantly increase in the future.*

*(9) The UNFCCC further stated that ''developed country Parties should take the lead in combating climate change and the adverse effects thereof'', as these nations are the largest historic and current emitters of greenhouse gases. The UNFCCC also stated that ''steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas''.*

*(10) Senate Resolution 98 of the One Hundred Fifth Congress, which expressed that developing nations must also be included in any future, binding climate change treaty and such a treaty must not result in serious harm to the United States economy, should not cause the United States to abandon its shared responsibility to help reduce the risks of climate change and its impacts. Future international efforts in this regard should focus on recognizing the equitable responsibilities for addressing climate change by all nations, including commitments by the largest developing country emitters in a future, binding climate change treaty.*

*(11) It is the position of the United States that it will not interfere with the plans of any nation that chooses to ratify and implement the Kyoto Protocol to the UNFCCC.*

*(12) American businesses need to know how governments worldwide will address the risks of climate change.*

*(13) The United States benefits from investments in the research, development and deployment of a range of clean energy and efficiency technologies that can reduce the risks of climate change and its impacts and that can make the United States economy more productive, bolster energy security, create jobs, and protect the environment.*

*(b) SENSE OF CONGRESS.—It is the sense of the United States Congress that the United States should demonstrate international leadership and responsibility in reducing the health, environmental, and economic risks posed by climate change by—*

*(1) taking responsible action to ensure significant and meaningful reductions in emissions of greenhouse gases from all sectors;*

*(2) creating flexible international and domestic mechanisms, including joint implementation, technology deployment, tradable credits for emissions reductions and carbon sequestration projects that will reduce, avoid, and sequester greenhouse gas emissions; and*

*(3) participating in international negotiations, including putting forth a proposal to the Conference of the Parties, with the objective of securing United States participation in a future binding climate change Treaty in a manner that is consistent with the environmental objectives of the UNFCCC, that protects the economic interests of the United States, and recognizes the shared international responsibility for addressing climate change, including developing country participation.*

### *Subtitle B—Climate Change Strategy*

**SEC. 1011. SHORT TITLE.**

*This subtitle may be cited as the ''Climate Change Strategy and Technology Innovation Act of 2002''.*

**SEC. 1012. DEFINITIONS.**

*In this subtitle:*

*(1) CLIMATE-FRIENDLY TECHNOLOGY.—The term ''climate-friendly technology'' means any energy supply or end-use technology that, over the life of the technology and compared to similar technology in commercial use as of the date of enactment of this Act—*

*(A) results in reduced emissions of greenhouse gases;*

*(B) may substantially lower emissions of other pollutants; and*

*(C) may generate substantially smaller or less hazardous quantities of solid or liquid waste.*

*(2) DEPARTMENT.—The term ''Department'' means the Department of Energy.*

*(3) DEPARTMENT OFFICE.—The term ''Department Office'' means the Office of Climate Change Technology of the Department established by section 1015(a).*

*(4) FEDERAL AGENCY.—The term ''Federal agency'' has the meaning given the term ''agency'' in section 551 of title 5, United States Code.*

*(5) GREENHOUSE GAS.—The term ''greenhouse gas'' means—*

*(A) an anthropogenic gaseous constituent of the atmosphere (including carbon dioxide, methane, nitrous oxide, chlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride, and tropospheric ozone) that absorbs and re-emits infrared radiation and influences climate; and*

*(B) an anthropogenic aerosol (such as black soot) that absorbs solar radiation and influences climate.*

*(6) INTERAGENCY TASK FORCE.—The term ''Interagency Task Force'' means the Interagency Task Force established under section 1014(e).*

*(7) KEY ELEMENT.—The term ''key element'', with respect to the Strategy, means—*

*(A) definition of interim emission mitigation levels, that, coupled with specific mitigation approaches and after taking into account actions by other nations (if any), would result in stabilization of greenhouse gas concentrations;*

*(B) technology development, including—*

*(i) a national commitment to double energy research and development by the United States public and private sectors; and*

*(ii) in carrying out such research and development, a national commitment to provide a high degree of emphasis on bold, breakthrough technologies that will make possible a profound transformation of the energy, transportation, industrial, agricultural, and building sectors of the United States;*

*(C) climate adaptation research that focuses on actions necessary to adapt to climate change—*

*(i) that may have already occurred; or*

*(ii) that may occur under future climate change scenarios;*

*(D) climate science research that—*

*(i) builds on the substantial scientific understanding of climate change that exists as of the date of enactment of this subtitle; and*

*(ii) focuses on reducing the remaining scientific, technical, and economic uncertainties to aid in the development of sound response strategies.*

*(8) LONG-TERM GOAL OF THE STRATEGY.—The term ''long-term goal of the Strategy'' means the long-term goal in section 1013(a)(1).*

*(9) MITIGATION.—The term ''mitigation'' means actions that reduce, avoid, or sequester greenhouse gases.*

*(10) NATIONAL ACADEMY OF SCIENCES.—The term ''National Academy of Sciences'' means the National Academy of Sciences, the National Academy of Engineering, the Institute of Medicine, and the National Research Council.*

*(11) QUALIFIED INDIVIDUAL.—*

*(A) IN GENERAL.—The term ''qualified individual'' means an individual who has demonstrated expertise and leadership skills to draw on other experts in diverse fields of knowledge that are relevant to addressing the climate change challenge.*

*(B) FIELDS OF KNOWLEDGE.—The fields of knowledge referred to in subparagraph (A) are—*

*(i) the science of climate change and its impacts;*

*(ii) energy and environmental economics;*

*(iii) technology transfer and diffusion;*

*(iv) the social dimensions of climate change;*

*(v) climate change adaptation strategies;*

*(vi) fossil, nuclear, and renewable energy technology;*

*(vii) energy efficiency and energy conservation;*

*(viii) energy systems integration;*

*(ix) engineered and terrestrial carbon sequestration;*

*(x) transportation, industrial, and building sector concerns;*

*(xi) regulatory and market-based mechanisms for addressing climate change;*

*(xii) risk and decision analysis;*

*(xiii) strategic planning; and*

*(xiv) the international implications of climate change strategies.*

*(12) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.*

*(13) STABILIZATION OF GREENHOUSE GAS CONCENTRATIONS.—The term ''stabilization of greenhouse gas concentrations'' means the stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, recognizing that such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, as contemplated by the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.*

*(14) STRATEGY.—The term ''Strategy'' means the National Climate Change Strategy developed under section 1013.*

*(15) WHITE HOUSE OFFICE.—The term ''White House Office'' means the Office of National Climate Change Policy established by section 1014(a).*

***SEC. 1013. NATIONAL CLIMATE CHANGE STRATEGY.***

*(a) IN GENERAL.—The President, through the director of the White House Office and in consultation with the Interagency Task Force, shall develop a National Climate Change Strategy, which shall—*

*(1) have the long-term goal of stabilization of greenhouse gas concentrations through actions taken by the United States and other nations;*

*(2) recognize that accomplishing the long-term goal of the Strategy will take from many decades to more than a century, but acknowledging that significant actions must begin in the near term;*

*(3) incorporate the four key elements;*

*(4) be developed on the basis of an examination of a broad range of emissions levels and dates for achievement of those levels (including those evaluated by the Intergovernmental Panel on Climate Change and those consistent with United States treaty commitments) that, after taking into account actions by other nations, would achieve the long-term goal of the Strategy;*

*(5) consider the broad range of activities and actions that can be taken by United States entities to reduce, avoid, or sequester greenhouse gas emissions both within the United States and in other nations through the use of market mechanisms, which may include, but not be limited to, mitigation activities, terrestrial sequestration, earning offsets through carbon capture or project-based activities, trading of emissions credits in domestic and international markets, and the application of the resulting credits from any of the above within the United States;*

*(6) minimize any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the strategy is developed in an economically and environmentally sound manner;*

*(7) incorporate mitigation approaches leading to the development and deployment of advanced technologies and practices that will reduce, avoid, or sequester greenhouse gas emissions;*

*(8) be consistent with the goals of energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;*

*(9) take into account—*

*(A) the diversity of energy sources and technologies;*

*(B) supply-side and demand-side solutions; and*

*(C) national infrastructure, energy distribution, and transportation systems;*

*(10) be based on an evaluation of a wide range of approaches for achieving the long-term goal of the Strategy, including evaluation of—*

*(A) a variety of cost-effective Federal and State policies, programs, standards, and incentives;*

*(B) policies that integrate and promote innovative, market-based solutions in the United States and in foreign countries; and*

*(C) participation in other international institutions, or in the support of international activities, that are established or conducted to achieve the long-term goal of the Strategy;*

*(11) in the final recommendations of the Strategy—*

*(A) emphasize policies and actions that achieve the long-term goal of the Strategy; and*

*(B) provide specific recommendations concerning—*

*(i) measures determined to be appropriate for short-term implementation, giving preference to cost-effective and technologically feasible measures that will—*

*(I) produce measurable net reductions in United States emissions, compared to expected trends, that lead toward achievement of the long-term goal of the Strategy; and*

*(II) minimize any adverse short-term and long-term economic, environmental, national security, and social impacts on the United States;*

*(ii) the development of technologies that have the potential for long-term implementation—*

*(I) giving preference to technologies that have the potential to reduce significantly the overall cost of achieving the long-term goal of the Strategy; and*

*(II) considering a full range of energy sources, energy conversion and use technologies, and efficiency options;*

*(iii) such changes in institutional and technology systems are necessary to adapt to climate change in the short-term and the long-term;*

*(iv) such review, modification, and enhancement of the scientific, technical, and economic research efforts of the United States, and improvements to the data resulting from research, as are appropriate to improve the accuracy of predictions concerning climate change and the economic and social costs and opportunities relating to climate change; and*

*(v) changes that should be made to project and grant evaluation criteria under other Federal research and development programs so that those criteria do not inhibit development of climate-friendly technologies;*

*(12) recognize that the Strategy is intended to guide the Nation's effort to address climate change, but it shall not create a legal obligation on the part of any person or entity other than the duties of the Director of the White House Office and Interagency Task Force in the development of the Strategy;*

*(13) have a scope that considers the totality of United States public, private, and public-private sector actions that bear on the long-term goal;*

*(14) be developed in a manner that provides for meaningful participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in accordance with subsections (b)(3)(C)(iv)(II) and (e)(3)(B)(ii) of section 1014;*

*(15) address how the United States should engage State, tribal, and local governments in developing and carrying out a response to climate change;*

*(16) promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues;*

*(17) provide a detailed explanation of how the measures recommended by the Strategy will ensure that they do not result in serious harm to the economy of the United States;*

*(18) provide a detailed explanation of how the measures recommended by the Strategy will achieve its long-term goal;*

*(19) include any recommendations for legislative and administrative actions necessary to implement the Strategy;*

*(20) serve as a framework for climate change actions by all Federal agencies;*

*(21) recommend which Federal agencies are, or should be, responsible for the various aspects of implementation of the Strategy and any budgetary implications;*

*(22) address how the United States should engage foreign governments in developing an international response to climate change; and*

*(23) incorporate initiatives to open markets and promote the deployment of a range of climate-friendly technologies developed in the United States and abroad.*

*(b) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this section, the President, through the Interagency Task Force and the Director, shall submit to Congress the Strategy, in the form of a report that includes—*

*(1) a description of the Strategy and its goals, including how the Strategy addresses each of the 4 key elements;*

*(2) an inventory and evaluation of Federal programs and activities intended to carry out the Strategy;*

*(3) a description of how the Strategy will serve as a framework of climate change response actions by all Federal agencies, including a description of coordination mechanisms and interagency activities;*

*(4) evidence that the Strategy is consistent with other energy, transportation, industrial, agricultural, forestry, environmental, economic, and other relevant policies of the United States;*

*(5) a description of provisions in the Strategy that ensure that it minimizes any adverse short-term and long-term social, economic, national security, and environmental impacts, including ensuring that the Strategy is developed in an economically and environmentally sound manner;*

*(6) evidence that the Strategy has been developed in a manner that provides for participation by, and consultation among, Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties;*

*(7) a description of Federal activities that promote, to the maximum extent practicable, public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues; and*

*(8) recommendations for legislative or administrative changes to Federal programs or activities*

*implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaption activities.*

*(c) UPDATES.—Not later than 4 years after the date of submission of the Strategy to Congress under subsection (b), and at the end of each 4-year period thereafter, the President shall submit to Congress an updated version of the Strategy.*

*(d) PROGRESS REPORTS.—Not later than 1 year after the date of submission of the Strategy to Congress under subsection (b), and annually thereafter at the time that the President submits to the Congress the budget of the United States Government under section 1105 of title 31, United States Code, the President shall submit to Congress a report that—*

*(1) describes the Strategy, its goals, and the Federal programs and activities intended to carry out the Strategy through technological, scientific, mitigation, and adaptation activities;*

*(2) evaluates the Federal programs and activities implemented as part of this Strategy against the goals and implementation dates outlined in the Strategy;*

*(3) assesses the progress in implementation of the Strategy;*

*(4) incorporates the technology program reports required pursuant to section 1015(a)(3) and subsections (d) and (e) of section 1321;*

*(5) describes any changes to Federal programs or activities implemented to carry out this Strategy, in light of new knowledge of climate change and its impacts and costs or benefits, or technological capacity to improve mitigation or adaptation activities;*

*(6) describes all Federal spending on climate change for the current fiscal year and each of the 5 years previous; categorized by Federal agency and program function (including scientific research, energy research and development, regulation, education, and other activities);*

*(7) estimates the budgetary impact for the current fiscal year and each of the 5 years previous of any Federal tax credits, tax deductions or other incentives claimed by taxpayers that are directly or indirectly attributable to greenhouse gas emissions reduction activities;*

*(8) estimates the amount, in metric tons, of net greenhouse gas emissions reduced, avoided, or sequestered directly or indirectly as a result of the implementation of the Strategy;*

*(9) evaluates international research and development and market-based activities and the mitigation actions taken by the United States and other nations to achieve the long-term goal of the Strategy; and*

*(10) makes recommendations for legislative or administrative actions or adjustments that will accelerate progress towards meeting the near-term and long-term goals contained in the Strategy.*

*(e) NATIONAL ACADEMY OF SCIENCES REVIEW.—*

*(1) IN GENERAL.—Not later than 90 days after the date of publication of the Strategy under subsection (b) and each update under subsection (c), the Director of the National Science Foundation, on behalf of the Director of the White House Office and the Interagency Task Force, shall enter into appropriate arrangements with the National Academy of Sciences to conduct a review of the Strategy or update.*

*(2) CRITERIA.—The review by the National Academy of Sciences shall evaluate the goals and recommendations contained in the Strategy or update, taking into consideration—*

*(A) the adequacy of effort and the appropriateness of focus of the totality of all public, private, and public-private sector actions of the United States with respect to the Strategy, including the four key elements;*

*(B) the adequacy of the budget and the effectiveness with which each Federal agency is carrying out its responsibilities;*

*(C) current scientific knowledge regarding climate change and its impacts;*

*(D) current understanding of human social and economic responses to climate change, and responses of natural ecosystems to climate change;*

*(E) advancements in energy technologies that reduce, avoid, or sequester greenhouse gases or otherwise mitigate the risks of climate change;*

*(F) current understanding of economic costs and benefits of mitigation or adaptation activities;*

*(G) the existence of alternative policy options that could achieve the Strategy goals at lower economic, environmental, or social cost; and*

*(H) international activities and the actions taken by the United States and other nations to achieve the long-term goal of the Strategy.*

*(3) REPORT.—Not later than 1 year after the date of submittal to the Congress of the Strategy or update, as appropriate, the National Academy of Sciences shall prepare and submit to the Congress and the President a report concerning the results of its review, along with any recommendations as appropriate. Such report shall also be made available to the public.*

*(4) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this subsection, there are authorized to be appropriated to the National Science Foundation such sums as may be necessary.*

***SEC. 1014. OFFICE OF NATIONAL CLIMATE CHANGE POLICY.***

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—There is established, within the Executive Office of the President, the Office of National Climate Change Policy.*

*(2) FOCUS.—The White House Office shall have the focus of achieving the long-term goal of the Strategy while minimizing adverse short-term and long-term economic and social impacts.*

*(3) DUTIES.—Consistent with paragraph (2), the White House Office shall—*

*(A) establish policies, objectives, and priorities for the Strategy;*

*(B) in accordance with subsection (d), establish the Interagency Task Force to serve as the primary mechanism through which the heads of Federal agencies shall assist the Director of the White House Office in developing and implementing the Strategy;*

*(C) to the maximum extent practicable, ensure that the Strategy is based on objective, quantitative analysis, drawing on the analytical capabilities of Federal and State agencies, especially the Department Office;*

*(D) advise the President concerning necessary changes in organization, management, budgeting, and personnel allocation of Federal agencies involved in climate change response activities; and*

*(E) advise the President and notify a Federal agency if the policies and discretionary programs of the agency are not well aligned with, or are not contributing effectively to, the long-term goal of the Strategy.*

*(b) DIRECTOR OF THE WHITE HOUSE OFFICE.—*

*(1) IN GENERAL.—The White House Office shall be headed by a Director, who shall report directly to the President, and shall consult with the appropriate economic, environmental, national security, domestic policy, science and technology and other offices with the Executive Office of the President.*

*(2) APPOINTMENT.—The Director of the White House Office shall be a qualified individual appointed by the President, by and with the advice and consent of the Senate.*

*(3) DUTIES OF THE DIRECTOR OF THE WHITE HOUSE OFFICE.—*

*(A) STRATEGY.—In accordance with section 1013, the Director of the White House Office shall coordinate the development and updating of the Strategy.*

*(B) INTERAGENCY TASK FORCE.—The Director of the White House Office shall serve as Chair of the Interagency Task Force.*

*(C) ADVISORY DUTIES.—*

*(i) ENERGY, ECONOMIC, ENVIRONMENTAL, TRANSPORTATION, INDUSTRIAL, AGRICULTURAL, BUILDING, FORESTRY, AND OTHER PROGRAMS.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—*

*(I) the extent to which United States energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs are capable of producing progress on the long-term goal of the Strategy; and*

*(II) the extent to which proposed or newly created energy, economic, environmental, transportation, industrial, agricultural, forestry, building, and other relevant programs positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.*

*(ii) TAX, TRADE, AND FOREIGN POLICIES.—The Director of the White House Office, using an integrated perspective considering the totality of actions in the United States, shall advise the President and the heads of Federal agencies on—*

*(I) the extent to which the United States tax policy, trade policy, and foreign policy are capable of producing progress on the long-term goal of the Strategy; and*

*(II) the extent to which proposed or newly created tax policy, trade policy, and foreign policy positively or negatively affect the ability of the United States to achieve the long-term goal of the Strategy.*

*(iii) INTERNATIONAL TREATIES.—The Secretary of State, acting in conjunction with the Interagency Task Force and using the analytical tools available to the White House Office, shall provide to the Director of the White House Office an opinion that—*

*(I) specifies, to the maximum extent practicable, the economic and environmental costs and benefits of any proposed international treaties or components of treaties that have an influence on greenhouse gas management; and*

*(II) assesses the extent to which the treaties advance the long-term goal of the Strategy, while minimizing adverse short-term and long-term economic and social impacts and considering other impacts.*

*(iv) CONSULTATION.—*

*(I) WITH MEMBERS OF INTERAGENCY TASK FORCE.—To the extent practicable and appropriate, the Director of the White House Office shall consult with all members of the Interagency Task Force before providing advice to the President.*

*(II) WITH OTHER INTERESTED PARTIES.—The Director of the White House Office shall establish a process for obtaining the meaningful participation of Federal, State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties in the development and updating of the Strategy.*

*(D) PUBLIC EDUCATION, AWARENESS, OUTREACH, AND INFORMATION-SHARING.—The Director of the White House Office, to the maximum extent practicable, shall promote public awareness, outreach, and information-sharing to further the understanding of the full range of climate change-related issues.*

*(4) ANNUAL REPORTS.—The Director of the White House Office, in consultation with the Interagency Task Force and other interested parties, shall prepare the annual reports for submission by the President to Congress under section 1013(d).*

*(5) ANALYSIS.—During development of the Strategy, preparation of the annual reports submitted under paragraph (4), and provision of advice to the President and the heads of Federal agencies, the Director of the White House Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any uncertainties associated with the analysis.*

*(c) STAFF.—*

*(1) IN GENERAL.—The Director of the White House Office shall employ a professional staff, including the staff appointed under paragraph (2), of not more than 25 individuals to carry out the duties of the White House Office.*

*(2) INTERGOVERNMENTAL PERSONNEL AND FELLOWSHIPS.—The Director of the White House Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.) and subchapter VI of chapter 33 of title 5, United States Code, and fellowships, to obtain staff from Federal agencies, academia, scientific bodies, or a National Laboratory (as that term is defined in section 1203), for appointments of a limited term.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this title is enacted, the President shall provide such sums as are necessary to carry out the duties of the White House Office under this title until the date on which funds are made available under paragraph (2).*

*(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Executive Office of the President to carry out the duties of the White House Office under this subtitle, $5,000,000 for each of fiscal years 2003 through 2011, to remain available through September 30, 2011.*

*(e) INTERAGENCY TASK FORCE.—*

*(1) IN GENERAL.—The Director of the White House Office shall establish the Interagency Task Force.*

*(2) COMPOSITION.—The Interagency Task Force shall be composed of—*

*(A) the Director of the White House Office, who shall serve as Chair;*

*(B) the Secretary of State;*

*(C) the Secretary of Energy;*

*(D) the Secretary of Commerce;*

*(E) the Secretary of Transportation;*

*(F) the Secretary of Agriculture;*

*(G) the Administrator of the Environmental Protection Agency;*

*(H) the Chairman of the Council of Economic Advisers;*

*(I) the Chairman of the Council on Environmental Quality;*

*(J) the Director of the Office of Science and Technology Policy;*

*(K) the Director of the Office of Management and Budget; and*

*(L) the heads of such other Federal agencies as the President considers appropriate.*

*(3) STRATEGY.—*

*(A) IN GENERAL.—The Interagency Task Force shall serve as the primary forum through which the Federal agencies represented on the Interagency Task Force jointly assist the Director of the White House Office in—*

*(i) developing and updating the Strategy; and*

*(ii) preparing annual reports under section 1013(d).*

*(B) REQUIRED ELEMENTS.—In carrying out subparagraph (A), the Interagency Task Force shall—*

*(i) take into account the long-term goal and other requirements of the Strategy specified in section 1013(a);*

*(ii) consult with State, tribal, and local government agencies, nongovernmental organizations, academia, scientific bodies, industry, the public, and other interested parties; and*

*(iii) build consensus around a Strategy that is based on strong scientific, technical, and economic analyses.*

*(4) WORKING GROUPS.—The Chair, in consultation with the members of the Interagency Task Force, may establish such topical working groups as are necessary to carry out the duties of the Interagency Task Force and implement the Strategy, taking into consideration the key elements of the Strategy. Such working groups may be comprised of members of the Interagency Task Force or their designees.*

*(f) STAFF.—In accordance with procedures established by the Chair of the Interagency Task Force, the Federal agencies represented on the Interagency Task Force shall provide staff from the agencies to support information, data collection, and analyses required by the Interagency Task Force.*

*(g) HEARINGS.—Upon request of the Chair, the Interagency Task Force may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Interagency Task Force considers to be appropriate.*

***SEC. 1015. OFFICE OF CLIMATE CHANGE TECHNOLOGY.***

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—There is established, within the Department, the Office of Climate Change Technology.*

*(2) DUTIES.—The Department Office shall—*

*(A) manage an energy technology research and development program that directly supports the Strategy by—*

*(i) focusing on high-risk, bold, breakthrough technologies that—*

*(I) have significant promise of contributing to the long-term goal of the Strategy by—*

*(aa) mitigating the emissions of greenhouse gases;*

*(bb) removing and sequestering greenhouse gases from emission streams; or*

*(cc) removing and sequestering greenhouse gases from the atmosphere;*

*(II) are not being addressed significantly by other Federal programs; and*

*(III) would represent a substantial advance beyond technology available on the date of enactment of this subtitle;*

*(ii) forging fundamentally new research and development partnerships among various Department, other Federal, and State programs, particularly between basic science and energy technology programs, in cases in which such partnerships have significant potential to affect the ability of the United States to achieve the long-term goal of the Strategy at the lowest possible cost;*

*(iii) forging international research and development partnerships that are in the interests of the United States and make progress on achieving the long-term goal of the Strategy;*

*(iv) making available, through monitoring, experimentation, and analysis, data that are essential to proving the technical and economic viability of technology central to addressing climate change; and*

*(v) transferring research and development programs to other program offices of the Department once such a research and development program crosses the threshold of high-risk research and moves into the realm of more conventional technology development;*

*(B) through active participation in the Interagency Task Force and utilization of the analytical capabilities of the Department Office, share analyses of alternative climate change strategies with other agencies represented on the Interagency Task Force to assist them in understanding—*

*(i) the scale of the climate change challenge; and*

*(ii) how actions of the Federal agencies on the Interagency Task Force positively or negatively contribute to climate change solutions;*

*(C) provide analytical support to the White House Office, particularly in support of the development of the Strategy and associated progress reporting;*

*(D) foster the development of tools, data, and capabilities to ensure that—*

*(i) the United States has a robust capability for evaluating alternative climate change response scenarios; and*

*(ii) the Department Office provides long-term analytical continuity during the terms of service of successive Presidents;*

*(E) identify the total contribution of all Department programs to the Strategy; and*

*(F) advise the Secretary on all aspects of climate change-related issues, including necessary changes in Department organization, management, budgeting, and personnel allocation in the programs involved in climate change response-related activities.*

*(3) ANNUAL REPORTS.—The Department Office shall prepare an annual report for submission by the Secretary to Congress and the White House Office that—*

*(A) assesses progress toward meeting the goals of the energy technology research and development program described in this section;*

*(B) assesses the activities of the Department Office;*

*(C) assesses the contributions of all energy technology research and development programs of the Department (including science programs) to the long-term goal and other requirements of the Strategy; and*

*(D) make recommendations for actions by the Department and other Federal agencies to address the components of technology development that are necessary to support the Strategy.*

*(b) DIRECTOR OF THE DEPARTMENT OFFICE.—*

*(1) IN GENERAL.—The Department Office shall be headed by a Director, who shall be a qualified individual appointed by the President, and who shall be compensated at a rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.*

*(2) REPORTING.—The Director of the Department Office shall report directly to the Under Secretary for Energy and Science.*

*(3) VACANCIES.—A vacancy in the position of the Director of the Department Office shall be filled in the same manner as the original appointment was made.*

*(c) INTERGOVERNMENTAL PERSONNEL.—The Department Office may use the authority provided by the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4701 et seq.), subchapter VI of chapter 33 of title 5, United States Code, and other departmental personnel authorities, to obtain staff for appointments of a limited term.*

*(d) RELATIONSHIP TO OTHER DEPARTMENT PROGRAMS.—Each project carried out by the Department Office shall be—*

*(1) initiated only after consultation with one or more other appropriate program offices of the Department that support research and development in the areas relating to the project;*

*(2) managed by the Department Office; and*

*(3) in the case of a project that reaches a sufficient level of maturity, with the concurrence of the Department Office and the appropriate office described in paragraph (1), transferred to the appropriate office, along with the funds necessary to continue the project to the point at which non-Federal funding can provide substantial support for the project.*

*(e) COLLABORATION AND COST SHARING.—*

*(1) WITH OTHER FEDERAL AGENCIES.—Projects supported by the Department Office may include participation of, and be supported by, other Federal agencies that have a role in the development, commercialization, or transfer of energy, transportation, industrial, agricultural, forestry, or other climate change-related technology.*

*(2) WITH THE PRIVATE SECTOR.—*

*(A) IN GENERAL.—Notwithstanding section 1403, the Department Office shall create an operating model that allows for collaboration, division of effort, and cost sharing with industry on individual climate change response projects.*

*(B) REQUIREMENTS.—Although cost sharing in some cases may be appropriate, the Department Office shall focus on long-term high-risk research and development and should not make industrial partnerships or cost sharing a requirement, if such a requirement would bias the activities of the Department Office toward incremental innovations.*

*(C) REEVALUATION ON TRANSFER.—At such time as any bold, breakthrough research and development program reaches a sufficient level of technological maturity such that the program is*

*transferred to a program office of the Department other than the Department Office, the cost-sharing requirements and criteria applicable to the program shall be reevaluated.*

*(D) PUBLICATION IN FEDERAL REGISTER.—Each cost-sharing agreement entered into under this paragraph shall be published in the Federal Register.*

*(f) ANALYSIS OF CLIMATE CHANGE STRATEGY.—*

*(1) IN GENERAL.—The Department Office shall foster the development and application of advanced computational tools, data, and capabilities that, together with the capabilities of other Federal agencies, support integrated assessment of alternative climate change response scenarios and implementation of the Strategy.*

*(2) PROGRAMS.—*

*(A) IN GENERAL.—The Department Office shall—*

*(i) develop and maintain core analytical competencies and complex, integrated computational modeling capabilities that, together with the capabilities of other Federal agencies, are necessary to support the design and implementation of the Strategy; and*

*(ii) track United States and international progress toward the long-term goal of the Strategy.*

*(B) INTERNATIONAL CARBON DIOXIDE SEQUESTRATION MONITORING AND DATA PROGRAM.—In consultation with Federal, State, academic, scientific, private sector, nongovernmental, tribal, and international carbon capture and sequestration technology programs, the Department Office shall design and carry out an international carbon dioxide sequestration monitoring and data program to collect, analyze, and make available the technical and economic data to ascertain—*

*(i) whether engineered sequestration and terrestrial sequestration will be acceptable technologies from regulatory, economic, and international perspectives;*

*(ii) whether carbon dioxide sequestered in geological formations or ocean systems is stable and has inconsequential leakage rates on a geologic time-scale; and*

*(iii) the extent to which forest, agricultural, and other terrestrial systems are suitable carbon sinks.*

*(3) AREAS OF EXPERTISE.—*

*(A) IN GENERAL.—The Department Office shall develop and maintain expertise in integrated assessment, modeling, and related capabilities necessary—*

*(i) to understand the relationship between natural, agricultural, industrial, energy, and economic systems;*

*(ii) to design effective research and development programs; and*

*(iii) to assist with the development and implementation of the Strategy.*

*(B) TECHNOLOGY TRANSFER AND DIFFUSION.—The expertise described in clause (i) shall include knowledge of technology transfer and technology diffusion in United States and foreign markets.*

*(4) DISSEMINATION OF INFORMATION.—The Department Office shall ensure, to the maximum extent practicable, that technical and scientific knowledge relating to greenhouse gas emission reduction, avoidance, and sequestration is broadly disseminated through publications, fellowships, and training programs.*

*(5) ASSESSMENTS.—In a manner consistent with the Strategy, the Department shall conduct assessments of deployment of climate-friendly technology.*

*(6) ANALYSIS.—During development of the Strategy, annual reports submitted under subsection (a)(3), and advice to the Secretary, the Director of the Department Office shall place significant emphasis on the use of objective, quantitative analysis, taking into consideration any associated uncertainties.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) USE OF AVAILABLE APPROPRIATIONS.—From funds made available to Federal agencies for the fiscal year in which this subtitle is enacted, the President shall provide such sums as are necessary to carry out the duties of the Department Office under this subtitle until the date on which funds are made available under paragraph (2).*

*(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary, to carry out the duties of the Department Office under this subtitle, $4,750,000,000 for the period of fiscal years 2003 through 2011, to remain available through September 30, 2011.*

*(3) ADDITIONAL AMOUNTS.—Amounts authorized to be appropriated under this section shall be in addition to—*

*(A) amounts made available to carry out the United States Global Change Research Program under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.); and*

*(B) amounts made available under other provisions of law for energy research and development.*

***SEC. 1016. ADDITIONAL OFFICES AND ACTIVITIES.***

*The Secretary of Agriculture, the Secretary of Transportation, the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies may establish such offices and carry out such activities, in addition to those established or authorized by this Act, as are necessary to carry out this Act.*

***Subtitle C—Science and Technology Policy***

***SEC. 1021. GLOBAL CLIMATE CHANGE IN THE OFFICE OF SCIENCE AND TECHNOLOGY POLICY.***

*Section 101(b) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601(b)) is amended—*

*(1) by redesignating paragraphs (7) through (13) as paragraphs (8) through (14), respectively; and*

*(2) by inserting after paragraph (6) the following:*

*''(7) improving efforts to understand, assess, predict, mitigate, and respond to global climate change;''.*

***SEC. 1022. DIRECTOR OF OFFICE OF SCIENCE AND TECHNOLOGY POLICY FUNCTIONS.***

*(a) ADVISE PRESIDENT ON GLOBAL CLIMATE CHANGE.—Section 204(b)(1) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6613(b)(1)) is amended by inserting ''global climate change,'' after ''to,''.*

*(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—Section 207 of that Act (42 U.S.C. 6616) is amended—*

*(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and*

*(2) by inserting after subsection (a) the following:*

*''(b) ADVISE DIRECTOR OF OFFICE OF NATIONAL CLIMATE CHANGE POLICY.—In carrying out this Act, the Director shall advise the Director of the Office of National Climate Change Policy on matters concerning science and technology as they relate to global climate change.''.*

***Subtitle D—Miscellaneous Provisions***

***SEC. 1031. ADDITIONAL INFORMATION FOR REGULATORY REVIEW.***

*In each case that an agency prepares and submits a Statement of Energy Effects pursuant to Executive Order 13211 of May 18, 2001 (relating to actions concerning regulations that significantly affect energy supply, distribution, or use), the agency shall also submit an estimate of the change in net annual greenhouse gas emissions resulting from the proposed significant energy action and any reasonable alternatives to the action.*

***SEC. 1032. GREENHOUSE GAS EMISSIONS FROM FEDERAL FACILITIES.***

*(a) METHODOLOGY.—Not later than 1 year after the date of enactment of this section, the Secretary of Energy, Secretary of Agriculture, Secretary of Commerce, and Administrator of the Environmental Protection Agency shall publish a jointly developed methodology for preparing estimates of annual net greenhouse gas emissions from all federally owned, leased, or operated facilities and emission sources, including stationary, mobile, and indirect emissions as may be determined to be feasible.*

*(b) PUBLICATION.—Not later than 18 months after the date of enactment of this section, and annually thereafter, the Secretary of Energy shall publish an estimate of annual net greenhouse gas emissions from all federally owned, leased, or operated facilities and emission sources, using the methodology published under subsection (a).*

***TITLE XI—NATIONAL GREENHOUSE GAS DATABASE***

***SEC. 1101. PURPOSE.***

*The purpose of this title is to establish a greenhouse gas inventory, reductions registry, and information system that—*

*(1) are complete, consistent, transparent, and accurate;*

*(2) will create reliable and accurate data that can be used by public and private entities to design efficient and effective greenhouse gas emission reduction strategies; and*

*(3) will acknowledge and encourage greenhouse gas emission reductions.*

***SEC. 1102. DEFINITIONS.***

*In this title:*

*(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.*

*(2) BASELINE.—The term ''baseline'' means the historic greenhouse gas emission levels of an entity, as adjusted upward by the designated agency to reflect actual reductions that are verified in accordance with—*

*(A) regulations promulgated under section 1104(c)(1); and*

*(B) relevant standards and methods developed under this title.*

*(3) DATABASE.—The term ''database'' means the National Greenhouse Gas Database established under section 1104.*

*(4) DESIGNATED AGENCY.—The term ''designated agency'' means a department or agency to which responsibility for a function or program is assigned under the memorandum of agreement entered into under section 1103(a).*

*(5) DIRECT EMISSIONS.—The term ''direct emissions'' means greenhouse gas emissions by an entity from a facility that is owned or controlled by that entity.*

*(6) ENTITY.—The term ''entity'' means—*

*(A) a person located in the United States; or*

*(B) a public or private entity, to the extent that the entity operates in the United States.*

*(7) FACILITY.—The term ''facility'' means—*

*(A) all buildings, structures, or installations located on any 1 or more contiguous or adjacent properties of an entity in the United States; and*

*(B) a fleet of 20 or more motor vehicles under the common control of an entity.*

*(8) GREENHOUSE GAS.—The term ''greenhouse gas'' means—*

*(A) carbon dioxide;*

*(B) methane;*

*(C) nitrous oxide;*

*(D) hydrofluorocarbons;*

*(E) perfluorocarbons;*

*(F) sulfur hexafluoride; and*

*(G) any other anthropogenic climate-forcing emissions with significant ascertainable global warming potential, as—*

*(i) recommended by the National Academy of Sciences under section 1107(b)(3); and*

*(ii) determined in regulations promulgated under section 1104(c)(1) (or revisions to the regulations) to be appropriate and practicable for coverage under this title.*

*(9) INDIRECT EMISSIONS.—The term ''indirect emissions'' means greenhouse gas emissions that—*

*(A) are a result of the activities of an entity; but*

*(B)(i) are emitted from a facility owned or controlled by another entity; and*

*(ii) are not reported as direct emissions by the entity the activities of which resulted in the emissions.*

*(10) REGISTRY.—The term ''registry'' means the registry of greenhouse gas emission reductions established as a component of the database under section 1104(b)(2).*

*(11) SEQUESTRATION.—*

*(A) IN GENERAL.—The term ''sequestration'' means the capture, long-term separation, isolation, or removal of greenhouse gases from the atmosphere.*

*(B) INCLUSIONS.—The term ''sequestration'' includes—*

*(i) soil carbon sequestration;*

*(ii) agricultural and conservation practices;*

*(iii) reforestation;*

*(iv) forest preservation;*

*(v) maintenance of an underground reservoir; and*

*(vi) any other appropriate biological or geological method of capture, isolation, or removal of greenhouse gases from the atmosphere, as determined by the Administrator.*

***SEC. 1103. ESTABLISHMENT OF MEMORANDUM OF AGREEMENT.***

*(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall direct the Secretary of Energy, the Secretary of Commerce, the Secretary of Agriculture, the Secretary of Transportation, and the Administrator to enter into a memorandum of agreement under which those heads of Federal agencies will—*

*(1) recognize and maintain statutory and regulatory authorities, functions, and programs that—*

*(A) are established as of the date of enactment of this Act under other law;*

*(B) provide for the collection of data relating to greenhouse gas emissions and effects; and*

*(C) are necessary for the operation of the database;*

*(2)(A) distribute additional responsibilities and activities identified under this title to Federal departments or agencies in accordance with the missions and expertise of those departments and agencies; and*

*(B) maximize the use of available resources of those departments and agencies; and*

*(3) provide for the comprehensive collection and analysis of data on greenhouse gas emissions relating to product use (including the use of fossil fuels and energy-consuming appliances and vehicles).*

*(b) MINIMUM REQUIREMENTS.—The memorandum of agreement entered into under subsection (a) shall, at a minimum, retain the following functions for the designated agencies:*

*(1) DEPARTMENT OF ENERGY.—The Secretary of Energy shall be primarily responsible for developing, maintaining, and verifying the registry and the emission reductions reported under section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)).*

*(2) DEPARTMENT OF COMMERCE.—The Secretary of Commerce shall be primarily responsible for the development of—*

*(A) measurement standards for the monitoring of emissions; and*

*(B) verification technologies and methods to ensure the maintenance of a consistent and technically accurate record of emissions, emission reductions, and atmospheric concentrations of greenhouse gases for the database.*

*(3) ENVIRONMENTAL PROTECTION AGENCY.—The Administrator shall be primarily responsible for—*

*(A) emissions monitoring, measurement, verification, and data collection under this title and title IV (relating to acid deposition control) and title VIII of the Clean Air Act (42 U.S.C. 7651 et seq.), including mobile source emissions information from implementation of the corporate average fuel economy program under chapter 329 of title 49, United States Code; and*

*(B) responsibilities of the Environmental Protection Agency relating to completion of the national inventory for compliance with the United Nations Framework Convention on Climate Change, done at New York on May 9, 1992.*

*(4) DEPARTMENT OF AGRICULTURE.—The Secretary of Agriculture shall be primarily responsible for—*

*(A) developing measurement techniques for—*

*(i) soil carbon sequestration; and*

*(ii) forest preservation and reforestation activities; and*

*(B) providing technical advice relating to biological carbon sequestration measurement and verification standards for measuring greenhouse gas emission reductions or offsets.*

*(c) DRAFT MEMORANDUM OF AGREEMENT.—Not later than 15 months after the date of enactment of this Act, the President, acting through the Director of the Office of National Climate Change Policy, shall publish in the Federal Register, and solicit comments on, a draft version of the memorandum of agreement described in subsection (a).*

*(d) NO JUDICIAL REVIEW.—The final version of the memorandum of agreement shall not be subject to judicial review.*

***SEC. 1104. NATIONAL GREENHOUSE GAS DATABASE.***

*(a) ESTABLISHMENT.—As soon as practicable after the date of enactment of this Act, the designated agencies, in consultation with the private sector and nongovernmental organizations, shall jointly establish, operate, and maintain a database, to be known as the ''National Greenhouse Gas Database'', to collect, verify, and analyze information on greenhouse gas emissions by entities.*

*(b) NATIONAL GREENHOUSE GAS DATABASE COMPONENTS.—The database shall consist of—*

*(1) an inventory of greenhouse gas emissions; and*

*(2) a registry of greenhouse gas emission reductions.*

*(c) COMPREHENSIVE SYSTEM.—*

*(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the designated agencies shall jointly promulgate regulations to implement a comprehensive system for greenhouse gas emissions reporting, inventorying, and reductions registration.*

*(2) REQUIREMENTS.—The designated agencies shall ensure, to the maximum extent practicable, that—*

*(A) the comprehensive system described in paragraph (1) is designed to—*

*(i) maximize completeness, transparency, and accuracy of information reported; and*

*(ii) minimize costs incurred by entities in measuring and reporting greenhouse gas emissions; and*

*(B) the regulations promulgated under paragraph (1) establish procedures and protocols necessary—*

*(i) to prevent the reporting of some or all of the same greenhouse gas emissions or emission reductions by more than 1 reporting entity;*

*(ii) to provide for corrections to errors in data submitted to the database;*

*(iii) to provide for adjustment to data by reporting entities that have had a significant organizational change (including mergers, acquisitions, and divestiture), in order to maintain comparability among data in the database over time;*

*(iv) to provide for adjustments to reflect new technologies or methods for measuring or calculating greenhouse gas emissions; and*

*(v) to account for changes in registration of ownership of emission reductions resulting from a voluntary private transaction between reporting entities.*

*(3) BASELINE IDENTIFICATION AND PROTECTION.—Through regulations promulgated under paragraph (1), the designated agencies shall develop and implement a system that provides—*

*(A) for the provision of unique serial numbers to identify the verified emission reductions made by an entity relative to the baseline of the entity;*

*(B) for the tracking of the reductions associated with the serial numbers; and*

*(C) that the reductions may be applied, as determined to be appropriate by any Act of Congress enacted after the date of enactment of this Act, toward a Federal requirement under such an Act that is imposed on the entity for the purpose of reducing greenhouse gas emissions.*

***SEC. 1105. GREENHOUSE GAS REDUCTION REPORTING.***

*(a) IN GENERAL.—An entity that participates in the registry shall meet the requirements described in subsection (b).*

*(b) REQUIREMENTS.—*

*(1) IN GENERAL.—The requirements referred to in subsection (a) are that an entity (other than an entity described in paragraph (2)) shall—*

*(A) establish a baseline (including all of the entity's greenhouse gas emissions on an entity-wide basis); and*

*(B) submit the report described in subsection (c)(1).*

*(2) REQUIREMENTS APPLICABLE TO ENTITIES ENTERING INTO CERTAIN AGREEMENTS.—An entity that enters into an agreement with a participant in the registry for the purpose of a carbon sequestration project shall not be required to comply with the requirements specified in paragraph (1) unless that entity is required to comply with the requirements by reason of an activity other than the agreement.*

*(c) REPORTS.—*

*(1) REQUIRED REPORT.—Not later than April 1 of the third calendar year that begins after the date of enactment of this Act, and not later than April 1 of each calendar year thereafter, subject to paragraph (3), an entity described in subsection (a) shall submit to each appropriate designated agency a report that describes, for the preceding calendar year, the entity-wide greenhouse gas emissions (as reported at the facility level), including—*

*(A) the total quantity of each greenhouse gas emitted, expressed in terms of mass and in terms of the quantity of carbon dioxide equivalent;*

*(B) an estimate of the greenhouse gas emissions from fossil fuel combusted by products manufactured and sold by the entity in the previous calendar year, determined over the average lifetime of those products; and*

*(C) such other categories of emissions as the designated agency determines in the regulations promulgated under section 1104(c)(1) may be practicable and useful for the purposes of this title, such as—*

*(i) direct emissions from stationary sources;*

*(ii) indirect emissions from imported electricity, heat, and steam;*

*(iii) process and fugitive emissions; and*

*(iv) production or importation of greenhouse gases.*

*(2) VOLUNTARY REPORTING.—An entity described in subsection (a) may (along with establishing a baseline and reporting reductions under this section)—*

*(A) submit a report described in paragraph (1) before the date specified in that paragraph for the purposes of achieving and commoditizing greenhouse gas reductions through use of the registry; and*

*(B) submit to any designated agency, for inclusion in the registry, information that has been verified in accordance with regulations promulgated under section 1104(c)(1) and that relates to—*

*(i) with respect to the calendar year preceding the calendar year in which the information is submitted, and with respect to any greenhouse gas emitted by the entity—*

*(I) project reductions from facilities owned or controlled by the reporting entity in the United States;*

*(II) transfers of project reductions to and from any other entity;*

*(III) project reductions and transfers of project reductions outside the United States;*

*(IV) other indirect emissions that are not required to be reported under paragraph (1); and*

*(V) product use phase emissions;*

*(ii) with respect to greenhouse gas emission reductions activities of the entity that have been carried out during or after 1990, verified in accordance with regulations promulgated under section 1104(c)(1), and submitted to 1 or more designated agencies before the date that is 4 years after the date of enactment of this Act, any greenhouse gas emission reductions that have been reported or submitted by an entity under—*

*(I) section 1605(b) of the Energy Policy Act of 1992 (42 U.S.C. 13385(b)); or*

*(II) any other Federal or State voluntary greenhouse gas reduction program; and*

*(iii) any project or activity for the reduction of greenhouse gas emissions or sequestration of a greenhouse gas that is carried out by the entity, including a project or activity relating to—*

*(I) fuel switching;*

*(II) energy efficiency improvements;*

*(III) use of renewable energy;*

*(IV) use of combined heat and power systems;*

*(V) management of cropland, grassland, or grazing land;*

*(VI) a forestry activity that increases forest carbon stocks or reduces forest carbon emissions;*

*(VII) carbon capture and storage;*

*(VIII) methane recovery;*

*(IX) greenhouse gas offset investment; and*

*(X) any other practice for achieving greenhouse gas reductions as recognized by 1 or more designated agencies.*

*(3) EXEMPTIONS FROM REPORTING.—*

*(A) IN GENERAL.—If the Director of the Office of National Climate Change Policy determines under section 1108(b) that the reporting requirements under paragraph (1) shall apply to all entities (other than entities exempted by this paragraph), regardless of participation or nonparticipation in the registry, an entity shall be required to submit reports under paragraph (1) only if, in any calendar year after the date of enactment of this Act—*

*(i) the total greenhouse gas emissions of at least 1 facility owned by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); or*

*(ii)(I) the total quantity of greenhouse gases produced, distributed, or imported by the entity exceeds 10,000 metric tons of carbon dioxide equivalent (or such greater quantity as may be established by a designated agency by regulation); and*

*(II) the entity is not a feedlot or other farming operation (as defined in section 101 of title 11, United States Code).*

*(B) ENTITIES ALREADY REPORTING.—*

*(i) IN GENERAL.—An entity that, as of the date of enactment of this Act, is required to report carbon dioxide emissions data to a Federal agency shall not be required to re-report that data for the purposes of this title.*

*(ii) REVIEW OF PARTICIPATION.—For the purpose of section 1108, emissions reported under clause (i) shall be considered to be reported by the entity to the registry.*

*(4) PROVISION OF VERIFICATION INFORMATION BY REPORTING ENTITIES.—Each entity that submits a report under this subsection shall provide information sufficient for each designated agency to which the report is submitted to verify, in accordance with measurement and verification methods and standards developed under section 1106, that the greenhouse gas report of the reporting entity—*

*(A) has been accurately reported; and*

*(B) in the case of each voluntary report under paragraph (2), represents—*

*(i) actual reductions in direct greenhouse gas emissions—*

*(I) relative to historic emission levels of the entity; and*

*(II) net of any increases in—*

*(aa) direct emissions; and*

*(bb) indirect emissions described in paragraph (1)(C)(ii); or*

*(ii) actual increases in net sequestration.*

*(5) FAILURE TO SUBMIT REPORT.—An entity that participates or has participated in the registry and that fails to submit a report required under this subsection shall be prohibited from including emission reductions reported to the registry in the calculation of the baseline of the entity in future years.*

*(6) INDEPENDENT THIRD-PARTY VERIFICATION.—To meet the requirements of this section and section 1106, a entity that is required to submit a report under this section may—*

*(A) obtain independent third-party verification; and*

*(B) present the results of the third-party verification to each appropriate designated agency.*

*(7) AVAILABILITY OF DATA.—*

*(A) IN GENERAL.—The designated agencies shall ensure, to the maximum extent practicable, that information in the database is—*

*(i) published;*

*(ii) accessible to the public; and*

*(iii) made available in electronic format on the Internet.*

*(B) EXCEPTION.—Subparagraph (A) shall not apply in any case in which the designated agencies determine that publishing or otherwise making available information described in that subparagraph poses a risk to national security.*

*(8) DATA INFRASTRUCTURE.—The designated agencies shall ensure, to the maximum extent practicable, that the database uses, and is integrated with, Federal, State, and regional greenhouse gas data collection and reporting systems in effect as of the date of enactment of this Act.*

*(9) ADDITIONAL ISSUES TO BE CONSIDERED.—In promulgating the regulations under section 1104(c)(1) and implementing the database, the designated agencies shall take into consideration a broad range of issues involved in establishing an effective database, including—*

*(A) the appropriate units for reporting each greenhouse gas;*

*(B) the data and information systems and measures necessary to identify, track, and verify greenhouse gas emission reductions in a manner that will encourage the development of private sector trading and exchanges;*

*(C) the greenhouse gas reduction and sequestration methods and standards applied in other countries, as applicable or relevant;*

*(D) the extent to which available fossil fuels, greenhouse gas emissions, and greenhouse gas production and importation data are adequate to implement the database;*

*(E) the differences in, and potential uniqueness of, the facilities, operations, and business and other relevant practices of persons and entities in the private and public sectors that may be expected to participate in the registry; and*

*(F) the need of the registry to maintain valid and reliable information on baselines of entities so that, in the event of any future action by Congress to require entities, individually or collectively, to reduce greenhouse gas emissions, Congress will be able—*

*(i) to take into account that information; and*

*(ii) to avoid enacting legislation that penalizes entities for achieving and reporting reductions.*

*(d) ANNUAL REPORT.—The designated agencies shall jointly publish an annual report that—*

*(1) describes the total greenhouse gas emissions and emission reductions reported to the database during the year covered by the report;*

*(2) provides entity-by-entity and sector-by-sector analyses of the emissions and emission reductions reported;*

*(3) describes the atmospheric concentrations of greenhouse gases; and*

*(4) provides a comparison of current and past atmospheric concentrations of greenhouse gases.*

***SEC. 1106. MEASUREMENT AND VERIFICATION.***

*(a) STANDARDS.—*

*(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the designated agencies shall jointly develop comprehensive measurement and verification methods and standards to ensure a consistent and technically accurate record of greenhouse gas emissions, emission reductions, sequestration, and atmospheric concentrations for use in the registry.*

*(2) REQUIREMENTS.—The methods and standards developed under paragraph (1) shall address the need for—*

*(A) standardized measurement and verification practices for reports made by all entities participating in the registry, taking into account—*

*(i) protocols and standards in use by entities desiring to participate in the registry as of the date of development of the methods and standards under paragraph (1);*

*(ii) boundary issues, such as leakage and shifted use;*

*(iii) avoidance of double counting of greenhouse gas emissions and emission reductions; and*

*(iv) such other factors as the designated agencies determine to be appropriate;*

*(B) measurement and verification of actions taken to reduce, avoid, or sequester greenhouse gas emissions;*

*(C) in coordination with the Secretary of Agriculture, measurement of the results of the use of carbon sequestration and carbon recapture technologies, including—*

*(i) organic soil carbon sequestration practices; and*

*(ii) forest preservation and reforestation activities that adequately address the issues of permanence, leakage, and verification;*

*(D) such other measurement and verification standards as the Secretary of Commerce, the Secretary of Agriculture, the Administrator, and the Secretary of Energy determine to be appropriate; and*

*(E) other factors that, as determined by the designated agencies, will allow entities to adequately establish a fair and reliable measurement and reporting system.*

*(b) REVIEW AND REVISION.—The designated agencies shall periodically review, and revise as necessary, the methods and standards developed under subsection (a).*

*(c) PUBLIC PARTICIPATION.—The Secretary of Commerce shall—*

*(1) make available to the public for comment, in draft form and for a period of at least 90 days, the methods and standards developed under subsection (a); and*

*(2) after the 90-day period referred to in paragraph (1), in coordination with the Secretary of Energy, the Secretary of Agriculture, and the Administrator, adopt the methods and standards developed under subsection (a) for use in implementing the database.*

*(d) EXPERTS AND CONSULTANTS.—*

*(1) IN GENERAL.—The designated agencies may obtain the services of experts and consultants in the private and nonprofit sectors in accordance with section 3109 of title 5, United States Code, in the areas of greenhouse gas measurement, certification, and emission trading.*

*(2) AVAILABLE ARRANGEMENTS.—In obtaining any service described in paragraph (1), the designated agencies may use any available grant, contract, cooperative agreement, or other arrangement authorized by law.*

***SEC. 1107. INDEPENDENT REVIEWS.***

*(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall submit to Congress a report that—*

*(1) describes the efficacy of the implementation and operation of the database; and*

*(2) includes any recommendations for improvements to this title and programs carried out under this title—*

*(A) to achieve a consistent and technically accurate record of greenhouse gas emissions, emission reductions, and atmospheric concentrations; and*

*(B) to achieve the purposes of this title.*

*(b) REVIEW OF SCIENTIFIC METHODS.—The designated agencies shall enter into an agreement with the National Academy of Sciences under which the National Academy of Sciences shall—*

*(1) review the scientific methods, assumptions, and standards used by the designated agencies in implementing this title;*

*(2) not later than 4 years after the date of enactment of this Act, submit to Congress a report that describes any recommendations for improving—*

*(A) those methods and standards; and*

*(B) related elements of the programs, and structure of the database, established by this title; and*

*(3) regularly review and update as appropriate the list of anthropogenic climate-forcing emissions with significant global warming potential described in section 1102(8)(G).*

***SEC. 1108. REVIEW OF PARTICIPATION.***

*(a) IN GENERAL.—Not later than 5 years after the date of enactment of this Act, the Director of the Office of National Climate Change Policy shall determine whether the reports submitted to the registry under section 1105(c)(1) represent less than 60 percent of the national aggregate anthropogenic greenhouse gas emissions.*

*(b) INCREASED APPLICABILITY OF REQUIREMENTS.—If the Director of the Office of National Climate Change Policy determines under subsection (a) that less than 60 percent of the aggregate national anthropogenic greenhouse gas emissions are being reported to the registry—*

*(1) the reporting requirements under section 1105(c)(1) shall apply to all entities (except entities exempted under section 1105(c)(3)), regardless of any participation or nonparticipation by the entities in the registry; and*

*(2) each entity shall submit a report described in section 1105(c)(1)—*

*(A) not later than the earlier of—*

*(i) April 30 of the calendar year immediately following the year in which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); or*

*(ii) the date that is 1 year after the date on which the Director of the Office of National Climate Change Policy makes the determination under subsection (a); and*

*(B) annually thereafter.*

*(c) RESOLUTION OF DISAPPROVAL.—For the purposes of this section, the determination of the Director of the Office of National Climate Change Policy under subsection (a) shall be considered to be a major rule (as defined in section 804(2) of title 5, United States Code) subject to the congressional disapproval procedure under section 802 of title 5, United States Code.*

***SEC. 1109. ENFORCEMENT.***

*If an entity that is required to report greenhouse gas emissions under section 1105(c)(1) or 1108 fails to comply with that requirement, the Attorney General may, at the request of the designated agencies, bring a civil action in United States district court against the entity to impose on the entity a civil penalty of not more than $25,000 for each day for which the entity fails to comply with that requirement.*

***SEC. 1110. REPORT ON STATUTORY CHANGES AND HARMONIZATION.***

*Not later than 3 years after the date of enactment of this Act, the President shall submit to Congress a report that describes any modifications to this title or any other provision of law that are necessary to improve the accuracy or operation of the database and related programs under this title.*

***SEC. 1111. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated such sums as are necessary to carry out this title.*

## *DIVISION E—ENHANCING RESEARCH, DEVELOPMENT, AND TRAINING*

## *TITLE XII—ENERGY RESEARCH AND DEVELOPMENT PROGRAMS*

***SEC. 1201. SHORT TITLE.***

*This division may be cited as the ''Energy Science and Technology Enhancement Act of 2002''.*

***SEC. 1202. FINDINGS.***

*The Congress finds the following:*

*(1) A coherent national energy strategy requires an energy research and development program that supports basic energy research and provides mechanisms to develop, demonstrate, and deploy new energy technologies in partnership with industry.*

*(2) An aggressive national energy research, development, demonstration, and technology deployment program is an integral part of a national climate change strategy, because it can reduce—*

*(A) United States energy intensity by 1.9 percent per year from 1999 to 2020;*

*(B) United States energy consumption in 2020 by 8 quadrillion Btu from otherwise expected levels; and*

*(C) United States carbon dioxide emissions from expected levels by 166 million metric tons in carbon equivalent in 2020.*

*(3) An aggressive national energy research, development, demonstration, and technology deployment program can help maintain domestic United States production of energy, increase United States hydrocarbon reserves by 14 percent, and lower natural gas prices by 20 percent, compared to estimates for 2020.*

*(4) An aggressive national energy research, development, demonstration, and technology deployment program is needed if United States suppliers and manufacturers are to compete in future markets for advanced energy technologies.*

***SEC. 1203. DEFINITIONS.***

*In this title:*

*(1) DEPARTMENT.—The term ''Department'' means the Department of Energy.*

*(2) DEPARTMENTAL MISSION.—The term ''departmental mission'' means any of the functions vested in the Secretary of Energy by the Department of Energy Organization Act (42 U.S.C. 7101 et seq.) or other law.*

*(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));*

*(4) NATIONAL LABORATORY.—The term ''National Laboratory'' means any of the following multipurpose laboratories owned by the Department of Energy—*

*(A) Argonne National Laboratory;*

*(B) Brookhaven National Laboratory;*

*(C) Idaho National Engineering and Environmental Laboratory;*

*(D) Lawrence Berkeley National Laboratory;*

*(E) Lawrence Livermore National Laboratory;*

*(F) Los Alamos National Laboratory;*

*(G) National Energy Technology Laboratory;*

*(H) National Renewable Energy Laboratory;*

*(I) Oak Ridge National Laboratory;*

*(J) Pacific Northwest National Laboratory; or*

*(K) Sandia National Laboratory.*

*(5) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.*

*(6) TECHNOLOGY DEPLOYMENT.—The term ''technology deployment'' means activities to promote acceptance and utilization of technologies in commercial application, including activities undertaken pursuant to section 7 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5906) or section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12007).*

***SEC. 1204. CONSTRUCTION WITH OTHER LAWS.***

*Except as otherwise provided in this title and title XIV, the Secretary shall carry out the research, development, demonstration, and technology deployment programs authorized by this title in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901 et seq.), the Energy Policy Act of 1992 (42 U.S.C. 13201 et seq.), or any other Act under which the Secretary is authorized to carry out such activities.*

### *Subtitle A—Energy Efficiency*

***SEC. 1211. ENHANCED ENERGY EFFICIENCY RESEARCH AND DEVELOPMENT.***

*(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance energy efficiency in buildings, industry, power technologies, and transportation.*

*(b) PROGRAM GOALS.—*

*(1) ENERGY-EFFICIENT HOUSING.—The goal of the energy-efficient housing program shall be to develop, in partnership with industry, enabling technologies (including lighting technologies), designs, production methods, and supporting activities that will, by 2010—*

*(A) cut the energy use of new housing by 50 percent, and*

*(B) reduce energy use in existing homes by 30 percent.*

*(2) INDUSTRIAL ENERGY EFFICIENCY.—The goal of the industrial energy efficiency program shall be to develop, in partnership with industry, enabling technologies, designs, production methods, and supporting activities that will, by 2010, enable energy-intensive industries such as the following industries to reduce their energy intensity by at least 25 percent—*

*(A) the wood product manufacturing industry;*

*(B) the pulp and paper industry;*

*(C) the petroleum and coal products manufacturing industry;*

*(D) the mining industry;*

*(E) the chemical manufacturing industry;*

*(F) the glass and glass product manufacturing industry;*

*(G) the iron and steel mills and ferroalloy manufacturing industry;*

*(H) the primary aluminum production industry;*

*(I) the foundries industry; and*

*(J) United States agriculture.*

*(3) TRANSPORTATION ENERGY EFFICIENCY.—The goal of the transportation energy efficiency program shall be to develop, in partnership with industry, technologies that will enable the achievement—*

*(A) by 2010, passenger automobiles with a fuel economy of 80 miles per gallon;*

*(B) by 2010, light trucks (classes 1 and 2a) with a fuel economy of 60 miles per gallon;*

*(C) by 2010, medium trucks and buses (classes 2b through 6 and class 8 transit buses) with a fuel economy, in ton-miles per gallon, that is three times that of year 2000 equivalent vehicles;*

*(D) by 2010, heavy trucks (classes 7 and 8) with a fuel economy, in ton-miles per gallon, that is two times that of year 2000 equivalent vehicles; and*

*(E) by 2015, the production of fuel-cell powered passenger vehicles with a fuel economy of 110 miles per gallon.*

*(4) ENERGY EFFICIENT DISTRIBUTED GENERATION.—The goals of the energy efficient on-site generation program shall be to help remove environmental and regulatory barriers to on-site, or distributed, generation and combined heat and power by developing technologies by 2015 that achieve—*

*(A) electricity generating efficiencies greater than 40 percent for on-site generation technologies based upon natural gas, including fuel cells, microturbines, reciprocating engines and industrial gas turbines;*

*(B) combined heat and power total (electric and thermal) efficiencies of more than 85 percent;*

*(C) fuel flexibility to include hydrogen, biofuels and natural gas;*

*(D) near zero emissions of pollutants that form smog and acid rain;*

*(E) reduction of carbon dioxide emissions by at least 40 percent;*

*(F) packaged system integration at end user facilities providing complete services in heating, cooling, electricity and air quality; and*

*(G) increased reliability for the consumer and greater stability for the national electricity grid.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—*

*(1) $700,000,000 for fiscal year 2003;*

*(2) $784,000,000 for fiscal year 2004;*

*(3) $878,000,000 for fiscal year 2005; and*

*(4) $983,000,000 for fiscal year 2006.*

*(d) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated in subsection (c) may be used for the following programs of the Department—*

*(1) Weatherization Assistance Program;*

*(2) State Energy Program; or*

*(3) Federal Energy Management Program.*

***SEC. 1212. ENERGY EFFICIENCY SCIENCE INITIATIVE.***

*(a) ESTABLISHMENT AND AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1211(c), there are authorized to be appropriated not more than $50,000,000 in any fiscal year, for an Energy Efficiency Science Initiative to be managed by the Assistant Secretary in the Department with responsibility for energy conservation under section 203(a)(9) of the Department of Energy Organization Act (42 U.S.C. 7133(a)(9)), in consultation with the Director of the Office of Science, for grants to be competitively awarded and subject to peer review for research relating to energy efficiency.*

*(b) REPORT.—The Secretary of Energy shall submit to the Committee on Science and the Committee on Appropriations of the United States House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Appropriations of the United States Senate, an annual report on the activities of the Energy Efficiency Science Initiative, including a description of the process used to award the funds and an explanation of how the research relates to energy efficiency.*

***SEC. 1213. NEXT GENERATION LIGHTING INITIATIVE.***

*(a) ESTABLISHMENT.—There is established in the Department a Next Generation Lighting Initiative to research, develop, and conduct demonstration activities on advanced solid-state lighting technologies based on white light emitting diodes.*

*(b) OBJECTIVES.—*

*(1) IN GENERAL.—The objectives of the initiative shall be to develop, by 2011, advanced solid-state lighting technologies based on white light emitting diodes that, compared to incandescent and fluorescent lighting technologies, are—*

*(A) longer lasting;*

*(B) more energy-efficient; and*

*(C) cost-competitive.*

*(2) INORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to inorganic white light emitting diodes shall be to develop an inorganic white light emitting diode that has an efficiency of 160 lumens per watt and a 10-year lifetime.*

*(3) ORGANIC WHITE LIGHT EMITTING DIODE.—The objective of the initiative with respect to organic white light emitting diodes shall be to develop an organic white light emitting diode with an efficiency of 100 lumens per watt with a 5-year lifetime that—*

*(A) illuminates over a full color spectrum;*

*(B) covers large areas over flexible surfaces; and*

*(C) does not contain harmful pollutants typical of fluorescent lamps such as mercury.*

*(c) CONSORTIUM.—*

*(1) IN GENERAL.—The Secretary shall initiate and manage basic and manufacturing-related research on advanced solid-state lighting technologies based on white light emitting diodes for the initiative, in cooperation with the Next Generation Lighting Initiative Consortium.*

*(2) COMPOSITION.—The consortium shall be composed of firms, national laboratories, and other entities so that the consortium is representative of the United States solid-state lighting research, development, and manufacturing expertise as a whole.*

*(3) FUNDING.—The consortium shall be funded by—*

*(A) participation fees; and*

*(B) grants provided under subsection (e)(1).*

*(4) ELIGIBILITY.—To be eligible to receive a grant under subsection (e)(1), the consortium shall—*

*(A) enter into a consortium participation agreement that—*

*(i) is agreed to by all participants; and*

*(ii) describes the responsibilities of participants, participation fees, and the scope of research activities; and*

*(B) develop an annual program plan.*

*(5) INTELLECTUAL PROPERTY.—Participants in the consortium shall have royalty-free nonexclusive rights to use intellectual property derived from consortium research conducted under subsection (e)(1).*

*(d) PLANNING BOARD.—*

*(1) IN GENERAL.—Not later than 90 days after the establishment of the consortium, the Secretary shall establish and appoint the members of a planning board, to be known as the ''Next Generation Lighting Initiative Planning Board'', to assist the Secretary in carrying out this section.*

*(2) COMPOSITION.—The planning board shall be composed of—*

*(A) four members from universities, national laboratories, and other individuals with expertise in advanced solid-state lighting and technologies based on white light emitting diodes; and*

*(B) three members from a list of not less than six nominees from industry submitted by the consortium.*

*(3) STUDY.—*

*(A) IN GENERAL.—Not later than 90 days after the date on which the Secretary appoints members to the planning board, the planning board shall complete a study on strategies for the development and implementation of advanced solid-state lighting technologies based on white light emitting diodes.*

*(B) REQUIREMENTS.—The study shall develop a comprehensive strategy to implement, through the initiative, the use of white light emitting diodes to increase energy efficiency and enhance United States competitiveness.*

*(C) IMPLEMENTATION.—As soon as practicable after the study is submitted to the Secretary, the Secretary shall implement the initiative in accordance with the recommendations of the planning board.*

*(4) TERMINATION.—The planning board shall terminate upon completion of the study under paragraph (3).*

*(e) GRANTS.—*

*(1) FUNDAMENTAL RESEARCH.—The Secretary, through the consortium, shall make grants to conduct basic and manufacturing-related research related to advanced solid-state lighting technologies based on white light emitting diode technologies.*

*(2) TECHNOLOGY DEVELOPMENT AND DEMONSTRATION.—The Secretary shall enter into grants, contracts, and cooperative agreements to conduct or promote technology research, development, or demonstration activities. In providing funding under this paragraph, the Secretary shall give preference to participants in the consortium.*

*(3) CONTINUING ASSESSMENT.—The consortium, in collaboration with the Secretary, shall formulate annual operating and performance objectives, develop technology roadmaps, and recommend research and development priorities for the initiative. The Secretary may also establish or utilize advisory committees, or enter into appropriate arrangements with the National Academy of Sciences, to conduct periodic reviews of the initiative. The Secretary shall consider the results of such assessment and review activities in making funding decisions under paragraphs (1) and (2) of this subsection.*

*(4) TECHNICAL ASSISTANCE.—The National Laboratories shall cooperate with and provide technical assistance to persons carrying out projects under the initiative.*

*(5) AUDITS.—*

*(A) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds made available under this section have been expended in a manner that is consistent with the objectives under subsection (b) and, in the case of funds made available to the consortium, the annual program plan of the consortium under subsection (c)(4)(B).*

*(B) REPORTS.—The auditor shall submit to Congress, the Secretary, and the Comptroller General of the United States an annual report containing the results of the audit.*

*(6) APPLICABLE LAW.—Grants, contracts, and cooperative agreements under this section shall not be subject to the Federal Acquisition Regulation.*

*(f) PROTECTION OF INFORMATION.—Information obtained by the Federal Government on a confidential basis under this section shall be considered to constitute trade secrets and commercial or financial information obtained from a person and privileged or confidential under section 552(b)(4) of title 5, United States Code.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 1211(c), there are authorized to be appropriated for activities under this section $50,000,000 for each of fiscal years 2003 through 2011.*

*(h) DEFINITIONS.—In this section:*

*(1) ADVANCED SOLID-STATE LIGHTING.—The term ''advanced solid-state lighting'' means a semiconducting device package and delivery system that produces white light using externally applied voltage.*

*(2) CONSORTIUM.—The term ''consortium'' means the Next Generation Lighting Initiative Consortium under subsection (c).*

*(3) INITIATIVE.—The term ''initiative'' means the Next Generation Lighting Initiative established under subsection (a).*

*(4) INORGANIC WHITE LIGHT EMITTING DIODE.—The term ''inorganic white light emitting diode'' means an inorganic semiconducting package that produces white light using externally applied voltage.*

*(5) ORGANIC WHITE LIGHT EMITTING DIODE.—The term ''organic white light emitting diode'' means an organic semiconducting compound that produces white light using externally applied voltage.*

*(6) WHITE LIGHT EMITTING DIODE.—The term ''white light emitting diode'' means—*

*(A) an inorganic white light emitting diode; or*

*(B) an organic white light emitting diode.*

***SEC. 1214. RAILROAD EFFICIENCY.***

*(a) ESTABLISHMENT.—The Secretary shall, in cooperation with the Secretaries of Transportation and Defense, and the Administrator of the Environmental Protection Agency, establish a public-private research partnership involving the Federal Government, railroad carriers, locomotive manufacturers, and the Association of American Railroads. The goal of the initiative shall include developing and demonstrating locomotive technologies that increase fuel economy, reduce emissions, improve safety, and lower costs.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the requirements of this section $60,000,000*

*for fiscal year 2003 and $70,000,000 for fiscal year 2004.*

**SEC. 1215. HIGH POWER DENSITY INDUSTRY PROGRAM.**

*The Secretary shall establish a comprehensive research, development, demonstration and deployment program to improve energy efficiency of high power density facilities, including data centers, server farms, and telecommunications facilities. Such program shall consider technologies that provide significant improvement in thermal controls, metering, load management, peak load reduction, or the efficient cooling of electronics.*

**SEC. 1216. RESEARCH REGARDING PRECIOUS METAL CATALYSIS.**

*The Secretary of Energy may, for the purpose of developing improved industrial and automotive catalysts, carry out research in the use of precious metals (excluding platinum, palladium, and rhodium) in catalysis directly, through national laboratories, or through grants to or cooperative agreements or contracts with public or nonprofit entities. There are authorized to be appropriated to carry out this section such sums as are necessary for fiscal years 2003 through 2006.*

**Subtitle B—Renewable Energy**

**SEC. 1221. ENHANCED RENEWABLE ENERGY RESEARCH AND DEVELOPMENT.**

*(a) PROGRAM DIRECTION.—The Secretary shall conduct balanced energy research, development, demonstration, and technology deployment programs to enhance the use of renewable energy.*

*(b) PROGRAM GOALS.—*

*(1) WIND POWER.—The goals of the wind power program shall be to develop, in partnership with industry, a variety of advanced wind turbine designs and manufacturing technologies that are cost-competitive with fossil-fuel generated electricity, with a focus on developing advanced low wind speed technologies that, by 2007, will enable the expanding utilization of widespread class 3 and 4 winds.*

*(2) PHOTOVOLTAICS.—The goal of the photovoltaic program shall be to develop, in partnership with industry, total photovoltaic systems with installed costs of $4,000 per peak kilowatt by 2005 and $2,000 per peak kilowatt by 2015.*

*(3) SOLAR THERMAL ELECTRIC SYSTEMS.—The goal of the solar thermal electric systems program shall be to develop, in partnership with industry, solar power technologies (including baseload solar power) that are competitive with fossil-fuel generated electricity by 2015, by combining high-efficiency and high-temperature receivers with advanced thermal storage and power cycles.*

*(4) BIOMASS-BASED POWER SYSTEMS.—The goal of the biomass program shall be to develop, in partnership with industry, integrated power-generating systems, advanced conversion, and feedstock technologies capable of producing electric power that is cost-competitive with fossil-fuel generated electricity by 2010, together with the production of fuels, chemicals, and other products under paragraph (6).*

*(5) GEOTHERMAL ENERGY.—The goal of the geothermal program shall be to develop, in partnership with industry, technologies and processes based on advanced hydrothermal systems and advanced heat and power systems, including geothermal heat pump technology, with a specific focus on—*

*(A) improving exploration and characterization technology to increase the probability of drilling successful wells from 20 percent to 40 percent by 2006;*

*(B) reducing the cost of drilling by 2008 to an average cost of $150 per foot; and*

*(C) developing enhanced geothermal systems technology with the potential to double the useable geothermal resource base.*

*(6) BIOFUELS.—The goal of the biofuels program shall be to develop, in partnership with industry—*

*(A) advanced biochemical and thermochemical conversion technologies capable of making liquid and gaseous fuels from cellulosic feedstocks that are price-competitive with gasoline or diesel in either internal combustion engines or fuel cell vehicles by 2010; and*

*(B) advanced biotechnology processes capable of making biofuels, biobased polymers, and chemicals, with particular emphasis on the development of biorefineries that use enzyme based processing systems.*

*For purposes of this paragraph, the term ''cellulosic feedstock'' means any portion of a food crop not normally used in food production or any nonfood crop grown for the purpose of producing biomass feedstock.*

*(7) HYDROGEN-BASED ENERGY SYSTEMS.—The goals of the hydrogen program shall be to support research and development on technologies for production, storage, and use of hydrogen, including fuel cells and, specifically, fuel-cell vehicle development activities under section 1211.*

*(8) HYDROPOWER.—The goal of the hydropower program shall be to develop, in partnership with industry, a new generation of turbine technologies that are less damaging to fish and aquatic ecosystems.*

*(9) ELECTRIC ENERGY SYSTEMS AND STORAGE.—The goals of the electric energy and storage program shall be to develop, in partnership with industry—*

*(A) generators and transmission, distribution, and storage systems that combine high capacity with high efficiency;*

*(B) technologies to interconnect distributed energy resources with electric power systems, comply with any national interconnection standards, have a minimum 10-year useful life;*

*(C) advanced technologies to increase the average efficiency of electric transmission facilities in rural and remote areas, giving priority for demonstrations to advanced transmission technologies that are being or have been field tested;*

*(D) the use of new transmission technologies, including flexible alternating current transmission systems, composite conductor materials, advanced protection devices, controllers, and other cost-effective methods and technologies;*

*(E) the use of superconducting materials in power delivery equipment such as transmission and distribution cables, transformers, and generators;*

*(F) energy management technologies for enterprises with aggregated loads and distributed generation, such as power parks;*

*(G) economic and system models to measure the costs and benefits of improved system performance;*

*(H) hybrid distributed energy systems to optimize two or more distributed or on-site generation technologies; and*

*(I) real-time transmission and distribution system control technologies that provide for continual exchange of information between generation, transmission, distribution, and end-user facilities.*

*(c) SPECIAL PROJECTS.—In carrying out this section, the Secretary shall demonstrate—*

*(1) the use of advanced wind power technology, biomass, geothermal energy systems, and other renewable energy technologies to assist in delivering electricity to rural and remote locations;*

*(2) the combined use of wind power and coal gasification technologies; and*

*(3) the use of high temperature superconducting technology in projects to demonstrate the development of superconductors that enhance the reliability, operational flexibility, or power-carrying capability of electric transmission systems or increase the electrical or operational efficiency of electric energy generation, transmission, distribution and storage systems.*

*(d) FINANCIAL ASSISTANCE TO RURAL AREAS.—In carrying out special projects under subsection (c), the Secretary may provide financial assistance to rural electric cooperatives and other rural entities.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—*

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

*(2) $595,000,000 for fiscal year 2004;*

*(3) $683,000,000 for fiscal year 2005; and*

*(4) $733,000,000 for fiscal year 2006, of which $100,000,000 may be allocated to meet the goals of subsection (b)(1).*

**SEC. 1222. BIOENERGY PROGRAMS.**

*(a) PROGRAM DIRECTION.—The Secretary shall carry out research, development, demonstration, and technology development activities related to bioenergy, including programs under paragraphs (4) and (6) of section 1221(b).*

*(b) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) BIOPOWER ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biopower energy systems—*

*(A) $60,300,000 for fiscal year 2003;*

*(B) $69,300,000 for fiscal year 2004;*

*(C) $79,600,000 for fiscal year 2005; and*

*(D) $86,250,000 for fiscal year 2006.*

*(2) BIOFUELS ENERGY SYSTEMS.—From amounts authorized under section 1221(e), there are authorized to be appropriated to the Secretary for biofuels energy systems—*

*(A) $57,500,000 for fiscal year 2003;*

*(B) $66,125,000 for fiscal year 2004;*

*(C) $76,000,000 for fiscal year 2005; and*

*(D) $81,400,000 for fiscal year 2006.*

*(3) INTEGRATED BIOENERGY RESEARCH AND DEVELOPMENT.—The Secretary may use funds authorized under paragraph (1) or (2) for programs, projects, or activities that integrate applications for both biopower and biofuels, including cross-cutting research and development in feedstocks and economic analysis.*

**SEC. 1223. HYDROGEN RESEARCH AND DEVELOPMENT.**

*(a) SHORT TITLE.—This section may be cited as the ''Hydrogen Future Act of 2002''.*

*(b) PURPOSES.—Section 102(b) of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12401(b)) is amended by striking paragraphs (2) and (3) and inserting the following:*

*''(2) to direct the Secretary to develop a program of technology assessment, information transfer, and education in which Federal agencies, members of the transportation, energy, and other industries, and other entities may participate;*

*''(3) to develop methods of hydrogen production that minimize production of greenhouse gases, including developing—*

*''(A) efficient production from nonrenewable resources; and*

*''(B) cost-effective production from renewable resources such as biomass, geothermal, wind, and solar energy; and*

*''(4) to foster the use of hydrogen as a major energy source, including developing the use of hydrogen in—*

*''(A) isolated villages, islands, and communities in which other energy sources are not available or are very expensive; and*

*''(B) foreign economic development, to avoid environmental damage from increased fossil fuel use.''.*

*(c) REPORT TO CONGRESS.—Section 103 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12402) is amended—*

*(1) in subsection (a), by striking ''January 1, 1999,'' and inserting ''1 year after the date of enactment of the Hydrogen Future Act of 2002, and biennially thereafter,'';*

*(2) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:*

*''(1) an analysis of hydrogen-related activities throughout the United States Government to identify productive areas for increased intragovernmental collaboration;*

''(2) recommendations of the Hydrogen Technical Advisory Panel established by section 108 for any improvements in the program that are needed, including recommendations for additional legislation; and

''(3) to the extent practicable, an analysis of State and local hydrogen-related activities.''; and

(3) by adding at the end the following:

''(c) COORDINATION PLAN.—The report under subsection (a) shall be based on a comprehensive coordination plan for hydrogen energy prepared by the Secretary in consultation with other Federal agencies.''.

(d) HYDROGEN RESEARCH AND DEVELOPMENT.—Section 104 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12403) is amended—

(1) in subsection (b)(1), by striking ''marketplace;'' and inserting ''marketplace, including foreign markets, particularly where an energy infrastructure is not well developed;'';

(2) in subsection (e), by striking ''this chapter'' and inserting ''this Act'';

(3) by striking subsection (g) and inserting the following:

''(g) COST SHARING.—

''(1) INABILITY TO FUND ENTIRE COST.—The Secretary shall not consider a proposal submitted by a person from industry unless the proposal contains a certification that—

''(A) reasonable efforts to obtain non-Federal funding in the amount necessary to pay 100 percent of the cost of the project have been made; and

''(B) non-Federal funding in that amount could not reasonably be obtained.

''(2) NON-FEDERAL SHARE.—

''(A) IN GENERAL.—The Secretary shall require a commitment from non-Federal sources of at least 25 percent of the cost of the project.

''(B) REDUCTION OR ELIMINATION.—The Secretary may reduce or eliminate the cost-sharing requirement under subparagraph (A) for the proposed research and development project, including for technical analyses, economic analyses, outreach activities, and educational programs, if the Secretary determines that reduction or elimination is necessary to achieve the objectives of this Act.'';

(4) in subsection (i), by striking ''this chapter'' and inserting ''this Act''.

(e) DEMONSTRATIONS.—Section 105 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12404) is amended by striking subsection (c) and inserting the following:

''(c) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

''(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.''.

(f) TECHNOLOGY TRANSFER.—Section 106 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12405) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by striking ''The Secretary shall conduct a program designed to accelerate wider application'' and inserting the following:

''(1) IN GENERAL.—The Secretary shall conduct a program designed to—

''(A) accelerate wider application''; and

(ii) by striking ''private sector'' and inserting ''private sector; and

''(B) accelerate wider application of hydrogen technologies in foreign countries to increase the global market for the technologies and foster global economic development without harmful environmental effects.''; and

(B) in the second sentence, by striking ''The Secretary'' and inserting the following:

''(2) ADVICE AND ASSISTANCE.—The Secretary''; and

(2) in subsection (b)—

(A) in paragraph (2), by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(C) by striking ''The Secretary, in'' and inserting the following:

''(1) IN GENERAL.—The Secretary, in'';

(D) by striking ''The information'' and inserting the following:

''(2) ACTIVITIES.—The information''; and

(E) in paragraph (1) (as designated by subparagraph (C))—

(i) in subparagraph (A) (as redesignated by subparagraph (B)), by striking ''an inventory'' and inserting ''an update of the inventory''; and

(ii) in subparagraph (B) (as redesignated by subparagraph (B)), by striking ''develop'' and all that follows through ''to improve'' and inserting ''develop with the National Aeronautics and Space Administration, the Department of Energy, other Federal agencies as appropriate, and industry, an information exchange program to improve''.

(g) TECHNICAL PANEL REVIEW.—

(1) IN GENERAL.—Section 108 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12407) is amended—

(A) in subsection (b)—

(i) by striking ''(b) MEMBERSHIP.—The technical panel shall be appointed'' and inserting the following:

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The technical panel shall be comprised of not fewer than 9 nor more than 15 members appointed'';

(ii) by striking the second sentence and inserting the following:

''(2) TERMS.—

''(A) IN GENERAL.—The term of a member of the technical panel shall be not more than 3 years.

''(B) STAGGERED TERMS.—The Secretary may appoint members of the technical panel in a manner that allows the terms of the members serving at any time to expire at spaced intervals so as to ensure continuity in the functioning of the technical panel.

''(C) REAPPOINTMENT.—A member of the technical panel whose term expires may be reappointed.''; and

(iii) by striking ''The technical panel shall have a chairman,'' and inserting the following:

''(3) CHAIRPERSON.—The technical panel shall have a chairperson,''; and

(B) in subsection (d)—

(i) in the matter preceding paragraph (1), by striking ''the following items'';

(ii) in paragraph (1), by striking ''and'' at the end;

(iii) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(iv) by adding at the end the following:

''(3) the plan developed by the interagency task force under section 202(b) of the Hydrogen Future Act of 1996.''.

(2) NEW APPOINTMENTS.—Not later than 180 days after the date of enactment of this Act, the Secretary—

(A) shall review the membership composition of the Hydrogen Technical Advisory Panel; and

(B) may appoint new members consistent with the amendments made by subsection (a).

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 109 of the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (42 U.S.C. 12408) is amended—

(1) in paragraph (8), by striking ''and'';

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(10) $65,000,000 for fiscal year 2003;

''(11) $70,000,000 for fiscal year 2004;

''(12) $75,000,000 for fiscal year 2005; and

''(13) $80,000,000 for fiscal year 2006.''.

(i) FUEL CELLS.—

(1) INTEGRATION OF FUEL CELLS WITH HYDROGEN PRODUCTION SYSTEMS.—Section 201 of the Hydrogen Future Act of 1996 is amended—

(A) in subsection (a) by striking ''(a) Not later than 180 days after the date of enactment of this section, and subject'' and inserting ''(a) IN GENERAL.—Subject'';

(B) by striking ''with—'' and all that follows and inserting ''into Federal, State, and local government facilities for stationary and transportation applications.'';

(C) in subsection (b), by striking ''gas is'' and inserting ''basis'';

(D) in subsection (c)(2), by striking ''systems described in subsections (a)(1) and (a)(2)'' and inserting ''projects proposed''; and

(E) by striking subsection (d) and inserting the following:

''(d) NON-FEDERAL SHARE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs directly relating to a demonstration project under this section.

''(2) REDUCTION.—The Secretary may reduce the non-Federal requirement under paragraph (1) if the Secretary determines that the reduction is appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.''.

(2) COOPERATIVE AND COST-SHARING AGREEMENTS; INTEGRATION OF TECHNICAL INFORMATION.—Title II of the Hydrogen Future Act of 1996 (42 U.S.C. 12403 note; Public Law 104–271) is amended by striking section 202 and inserting the following:

**''SEC. 202. INTERAGENCY TASK FORCE.**

''(a) ESTABLISHMENT.—Not later than 120 days after the date of enactment of this section, the Secretary shall establish an interagency task force led by a Deputy Assistant Secretary of the Department of Energy and comprised of representatives of—

''(1) the Office of Science and Technology Policy;

''(2) the Department of Transportation;

''(3) the Department of Defense;

''(4) the Department of Commerce (including the National Institute for Standards and Technology);

''(5) the Environmental Protection Agency;

''(6) the National Aeronautics and Space Administration; and

''(7) other agencies as appropriate.

''(b) DUTIES.—

''(1) IN GENERAL.—The task force shall develop a plan for carrying out this title.

''(2) FOCUS OF PLAN.—The plan shall focus on development and demonstration of integrated systems and components for—

''(A) hydrogen production, storage, and use in Federal, State, and local government buildings and vehicles;

''(B) hydrogen-based infrastructure for buses and other fleet transportation systems that include zero-emission vehicles; and

''(C) hydrogen-based distributed power generation, including the generation of combined heat, power, and hydrogen.

**''SEC. 203. COOPERATIVE AND COST-SHARING AGREEMENTS.**

''The Secretary shall enter into cooperative and cost-sharing agreements with Federal, State, and local agencies for participation by the agencies in demonstrations at facilities administered by the agencies, with the aim of integrating high efficiency hydrogen systems using fuel cells into the facilities to provide immediate benefits and promote a smooth transition to hydrogen as an energy source.

**''SEC. 204. INTEGRATION AND DISSEMINATION OF TECHNICAL INFORMATION.**

''The Secretary shall—

''(1) integrate all the technical information that becomes available as a result of development and demonstration projects under this title;

''(2) make the information available to all Federal and State agencies for dissemination to all interested persons; and

''(3) foster the exchange of generic, nonproprietary information and technology developed under this title among industry, academia, and Federal, State, and local governments, to help the United States economy attain the economic benefits of the information and technology.

**''SEC. 205. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated, for activities under this title—

''(1) $25,000,000 for fiscal year 2003;

''(2) $30,000,000 for fiscal year 2004;

''(3) $35,000,000 for fiscal year 2005; and

''(4) $40,000,000 for fiscal year 2006.''.

**Subtitle C—Fossil Energy**

**SEC. 1231. ENHANCED FOSSIL ENERGY RESEARCH AND DEVELOPMENT.**

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to enhance fossil energy.

(b) PROGRAM GOALS.—

(1) CORE FOSSIL RESEARCH AND DEVELOPMENT.—The goals of the core fossil research and development program shall be to reduce emissions from fossil fuel use by developing technologies, including precombustion technologies, by 2015 with the capability of realizing—

(A) electricity generating efficiencies of 60 percent for coal and 75 percent for natural gas;

(B) combined heat and power thermal efficiencies of more than 85 percent;

(C) fuels utilization efficiency of 75 percent for the production of liquid transportation fuels from coal;

(D) near zero emissions of mercury and of emissions that form fine particles, smog, and acid rain;

(E) reduction of carbon dioxide emissions by at least 40 percent through efficiency improvements and 100 percent with sequestration; and

(F) improved reliability, efficiency, reductions of air pollutant emissions, or reductions in solid waste disposal requirements.

(2) OFFSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the offshore oil and natural gas resources program shall be to develop technologies to—

(A) extract methane hydrates in coastal waters of the United States, and

(B) develop natural gas and oil reserves in the ultra-deepwater of the Central and Western Gulf of Mexico.

(3) ONSHORE OIL AND NATURAL GAS RESOURCES.—The goal of the onshore oil and natural gas resources program shall be to advance the science and technology available to domestic onshore petroleum producers, particularly independent operators, through—

(A) advances in technology for exploration and production of domestic petroleum resources, particularly those not accessible with current technology;

(B) improvement in the ability to extract hydrocarbons from known reservoirs and classes of reservoirs; and

(C) development of technologies and practices that reduce the threat to the environment from petroleum exploration and production and decrease the cost of effective environmental compliance.

(4) TRANSPORTATION FUELS.—The goals of the transportation fuels program shall be to increase the price elasticity of oil supply and demand by focusing research on—

(A) reducing the cost of producing transportation fuels from coal and natural gas; and

(B) indirect liquefaction of coal and biomass.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this section—

(A) $485,000,000 for fiscal year 2003;

(B) $508,000,000 for fiscal year 2004;

(C) $532,000,000 for fiscal year 2005; and

(D) $558,000,000 for fiscal year 2006.

(2) LIMITS ON USE OF FUNDS.—None of the funds authorized in paragraph (1) may be used for—

(A) fossil energy environmental restoration;

(B) import/export authorization;

(C) program direction; or

(D) general plant projects.

(3) COAL-BASED PROJECTS.—The coal-based projects funded under this section shall be consistent with the goals in subsection (b). The program shall emphasize carbon capture and sequestration technologies and gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, hybrid gasification/combustion, or other technology with the potential to address the goals in subparagraphs (D) or (E) of subsection (b)(1).

**SEC. 1232. POWER PLANT IMPROVEMENT INITIATIVE.**

(a) PROGRAM DIRECTION.—The Secretary shall conduct a balanced energy research, development, demonstration, and technology deployment program to demonstrate commercial applications of advanced lignite and coal-based technologies applicable to new or existing power plants (including co-production plants) that advance the efficiency, environmental performance, and cost-competitiveness substantially beyond technologies that are in operation or have been demonstrated by the date of enactment of this subtitle.

(b) TECHNICAL MILESTONES.—

(1) IN GENERAL.—The Secretary shall set technical milestones specifying efficiency and emissions levels that projects shall be designed to achieve. The milestones shall become more restrictive over the life of the program.

(2) 2010 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2010 interim thermal efficiency of—

(A) forty-five percent for coal of more than 9,000 Btu;

(B) forty-four percent for coal of 7,000 to 9,000 Btu; and

(C) forty-two percent for coal of less than 7,000 Btu.

(3) 2020 EFFICIENCY MILESTONES.—The milestones shall be designed to achieve by 2020 thermal efficiency of—

(A) sixty percent for coal of more than 9,000 Btu;

(B) fifty-nine percent for coal of 7,000 to 9,000 Btu; and

(C) fifty-seven percent for coal of less than 7,000 Btu.

(4) EMISSIONS MILESTONES.—The milestones shall include near zero emissions of mercury and greenhouse gases and of emissions that form fine particles, smog, and acid rain.

(5) REGIONAL AND QUALITY DIFFERENCES.—The Secretary may consider regional and quality differences in developing the efficiency milestones.

(c) PROJECT CRITERIA.—The demonstration activities proposed to be conducted at a new or existing coal-based electric generation unit having a nameplate rating of not less than 100 megawatts, excluding a co-production plant, shall include at least one of the following—

(1) a means of recycling or reusing a significant portion of coal combustion wastes produced by coal-based generating units, excluding practices that are commercially available by the date of enactment of this subtitle;

(2) a means of capture and sequestering emissions, including greenhouse gases, in a manner that is more effective and substantially below the cost of technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle;

(3) a means of controlling sulfur dioxide and nitrogen oxide or mercury in a manner that improves environmental performance beyond technologies that are in operation or that have been demonstrated by the date of enactment of this subtitle—

(A) in the case of an existing unit, achieve an overall thermal design efficiency improvement compared to the efficiency of the unit as operated, of not less than—

(i) 7 percent for coal of more than 9,000 Btu;

(ii) 6 percent for coal of 7,000 to 9,000 Btu; or

(iii) 4 percent for coal of less than 7,000 Btu; or

(B) in the case of a new unit, achieve the efficiency milestones set for in subsection (b) compared to the efficiency of a typical unit as operated on the date of enactment of this subtitle, before any retrofit, repowering, replacement, or installation.

(d) STUDY.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and interested entities (including coal producers, industries using coal, organizations to promote coal or advanced coal technologies, environmental organizations, and organizations representing workers), shall conduct an assessment that identifies performance criteria that would be necessary for coal-based technologies to meet, to enable future reliance on coal in an environmentally sustainable manner for electricity generation, use as a chemical feedstock, and use as a transportation fuel.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out activities under this section $200,000,000 for each of fiscal years 2003 through 2011.

(2) LIMITATION ON FUNDING OF PROJECTS.—Eighty percent of the funding under this section shall be limited to—

(A) carbon capture and sequestration technologies;

(B) gasification technologies, including gasification combined cycle, gasification fuel cells, gasification co-production, or hybrid gasification/combustion; or

(C) other technology either by itself or in conjunction with other technologies that has the potential to achieve near zero emissions.

**SEC. 1233. RESEARCH AND DEVELOPMENT FOR ADVANCED SAFE AND EFFICIENT COAL MINING TECHNOLOGIES.**

(a) ESTABLISHMENT.—The Secretary of Energy shall establish a cooperative research partnership involving appropriate Federal agencies, coal producers, including associations, equipment manufacturers, universities with mining engineering departments, and other relevant entities to—

(1) develop mining research priorities identified by the Mining Industry of the Future Program and in the recommendations from relevant reports of the National Academy of Sciences on mining technologies;

(2) establish a process for conducting joint industry-Government research and development; and

(3) expand mining research capabilities at institutions of higher education.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out activities under this section, $12,000,000 in fiscal year 2003 and $15,000,000 in fiscal year 2004.

(2) LIMIT ON USE OF FUNDS.—Not less than 20 percent of any funds appropriated in a given fiscal year under this subsection shall be dedicated to research carried out at institutions of higher education.

**SEC. 1234. ULTRA-DEEPWATER AND UNCONVENTIONAL RESOURCE EXPLORATION AND PRODUCTION TECHNOLOGIES.**

(a) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term ''Advisory Committee'' means the Ultra-Deepwater and Unconventional Resource Technology Advisory Committee established under subsection (c).

(2) AWARD.—The term ''award'' means a cooperative agreement, contract, award or other types of agreement as appropriate.

*(3) DEEPWATER.—The term ''deepwater'' means a water depth that is greater than 200 but less than 1,500 meters.*

*(4) ELIGIBLE AWARD RECIPIENT.—The term ''eligible award recipient'' includes—*

*(A) a research institution;*

*(B) an institution of higher education;*

*(C) a corporation; and*

*(D) a managing consortium formed among entities described in subparagraphs (A) through (C).*

*(5) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).*

*(6) MANAGING CONSORTIUM.—The term ''managing consortium'' means an entity that—*

*(A) exists as of the date of enactment of this section;*

*(B)(i) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986; and*

*(ii) is exempt from taxation under section 501(a) of that Code;*

*(C) is experienced in planning and managing programs in natural gas or other petroleum exploration and production research, development, and demonstration; and*

*(D) has demonstrated capabilities and experience in representing the views and priorities of industry, institutions of higher education and other research institutions in formulating comprehensive research and development plans and programs.*

*(7) PROGRAM.—The term ''program'' means the program of research, development, and demonstration established under subsection (b)(1)(A).*

*(8) ULTRA-DEEPWATER.—The term ''ultra-deepwater'' means a water depth that is equal to or greater than 1,500 meters.*

*(9) ULTRA-DEEPWATER ARCHITECTURE.—The term ''ultra-deepwater architecture'' means the integration of technologies to explore and produce natural gas or petroleum products located at ultra-deepwater depths.*

*(10) ULTRA-DEEPWATER RESOURCE.—The term ''ultra-deepwater resource'' means natural gas or any other petroleum resource (including methane hydrate) located in an ultra-deepwater area.*

*(11) UNCONVENTIONAL RESOURCE.—The term ''unconventional resource'' means natural gas or any other petroleum resource located in a formation on physically or economically inaccessible land currently available for lease for purposes of natural gas or other petroleum exploration or production.*

*(b) ULTRA-DEEPWATER AND UNCONVENTIONAL EXPLORATION AND PRODUCTION PROGRAM.—*

*(1) ESTABLISHMENT.—*

*(A) IN GENERAL.—The Secretary shall establish a program of research into, and development and demonstration of, ultra-deepwater resource and unconventional resource exploration and production technologies.*

*(B) LOCATION; IMPLEMENTATION.—The program under this subsection shall be carried out—*

*(i) in areas on the outer Continental Shelf that, as of the date of enactment of this section, are available for leasing; and*

*(ii) on unconventional resources.*

*(2) COMPONENTS.—The program shall include one or more programs for long-term research into—*

*(A) new deepwater ultra-deepwater resource and unconventional resource exploration and production technologies; or*

*(B) environmental mitigation technologies for production of ultra-deepwater resource and unconventional resource.*

*(c) ADVISORY COMMITTEE.—*

*(1) ESTABLISHMENT.—Not later than 30 days after the date of enactment of this section, the Secretary shall establish an advisory committee to be known as the ''Ultra-Deepwater and Unconventional Resource Technology Advisory Committee''.*

*(2) MEMBERSHIP.—*

*(A) COMPOSITION.—Subject to subparagraph (B), the advisory committee shall be composed of seven members appointed by the Secretary that—*

*(i) have extensive operational knowledge of and experience in the natural gas and other petroleum exploration and production industry; and*

*(ii) are not Federal employees or employees of contractors to a Federal agency.*

*(B) EXPERTISE.—Of the members of the advisory committee appointed under subparagraph (A)—*

*(i) at least four members shall have extensive knowledge of ultra-deepwater resource exploration and production technologies;*

*(ii) at least three members shall have extensive knowledge of unconventional resource exploration and production technologies.*

*(3) DUTIES.—The advisory committee shall advise the Secretary in the implementation of this section.*

*(4) COMPENSATION.—A member of the advisory committee shall serve without compensation but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.*

*(d) AWARDS.—*

*(1) TYPES OF AWARDS.—*

*(A) ULTRA-DEEPWATER RESOURCES.—*

*(i) IN GENERAL.—The Secretary shall make awards for research into, and development and demonstration of, ultra-deepwater resource exploration and production technologies—*

*(I) to maximize the value of the ultra-deepwater resources of the United States;*

*(II) to increase the supply of ultra-deepwater resources by lowering the cost and improving the efficiency of exploration and production of such resources; and*

*(III) to improve safety and minimize negative environmental impacts of that exploration and production.*

*(ii) ULTRA-DEEPWATER ARCHITECTURE.—In furtherance of the purposes described in clause (i), the Secretary shall, where appropriate, solicit proposals from a managing consortium to develop and demonstrate next-generation architecture for ultra-deepwater resource production.*

*(B) UNCONVENTIONAL RESOURCES.—The Secretary shall make awards—*

*(i) to carry out research into, and development and demonstration of, technologies to maximize the value of unconventional resources; and*

*(ii) to develop technologies to simultaneously—*

*(I) increase the supply of unconventional resources by lowering the cost and improving the efficiency of exploration and production of unconventional resources; and*

*(II) improve safety and minimize negative environmental impacts of that exploration and production.*

*(2) CONDITIONS.—An award made under this subsection shall be subject to the following conditions:*

*(A) MULTIPLE ENTITIES.—If an award recipient is composed of more than one eligible organization, the recipient shall provide a signed contract, agreed to by all eligible organizations comprising the award recipient, that defines, in a manner that is consistent with all applicable law in effect as of the date of the contract, all rights to intellectual property for—*

*(i) technology in existence as of that date; and*

*(ii) future inventions conceived and developed using funds provided under the award.*

*(B) COMPONENTS OF APPLICATION.—An application for an award for a demonstration project shall describe with specificity any intended commercial applications of the technology to be demonstrated.*

*(C) COST SHARING.—Non-Federal cost sharing shall be in accordance with section 1403.*

*(e) PLAN AND FUNDING.—*

*(1) IN GENERAL.—The Secretary, and where appropriate, a managing consortium under subsection (d)(1)(A)(ii), shall formulate annual operating and performance objectives, develop multiyear technology roadmaps, and establish research and development priorities for the funding of activities under this section which will serve as guidelines for making awards including cost-matching objectives.*

*(2) INDUSTRY INPUT.—In carrying out this program, the Secretary shall promote maximum industry input through the use of managing consortia or other organizations in planning and executing the research areas and conducting workshops or reviews to ensure that this program focuses on industry problems and needs.*

*(f) AUDITING.—*

*(1) IN GENERAL.—The Secretary shall retain an independent, commercial auditor to determine the extent to which funds authorized by this section, provided through a managing consortium, are expended in a manner consistent with the purposes of this section.*

*(2) REPORTS.—The auditor retained under paragraph (1) shall submit to the Secretary, and the Secretary shall transmit to the appropriate congressional committees, an annual report that describes—*

*(A) the findings of the auditor under paragraph (1); and*

*(B) a plan under which the Secretary may remedy any deficiencies identified by the auditor.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.*

*(h) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on September 30, 2009.*

*(i) SAVINGS PROVISION.—Nothing in this section is intended to displace, duplicate or diminish any previously authorized research activities of the Department of Energy.*

***SEC. 1235. RESEARCH AND DEVELOPMENT FOR NEW NATURAL GAS TRANSPORTATION TECHNOLOGIES.***

*The Secretary of Energy shall conduct a comprehensive 5-year program for research, development and demonstration to improve the reliability, efficiency, safety and integrity of the natural gas transportation and distribution infrastructure and for distributed energy resources (including microturbines, fuel cells, advanced engine-generators, gas turbines, reciprocating engines, hybrid power generation systems, and all ancillary equipment for dispatch, control and maintenance).*

***SEC. 1236. AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF ARCTIC ENERGY.***

*There are authorized to be appropriated to the Secretary for the Office of Arctic Energy under section 3197 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106–398) such sums as may be necessary, but not to exceed $25,000,000 for each of fiscal years 2003 through 2011.*

***SEC. 1237. CLEAN COAL TECHNOLOGY LOAN.***

*There is authorized to be appropriated not to exceed $125,000,000 to the Secretary of Energy to provide a loan to the owner of the experimental plant constructed under United States Department of Energy cooperative agreement number DE–FC22–91PC99544 on such terms and conditions as the Secretary determines, including interest rates and upfront payments.*

***Subtitle D—Nuclear Energy***

***SEC. 1241. ENHANCED NUCLEAR ENERGY RESEARCH AND DEVELOPMENT.***

*(a) PROGRAM DIRECTION.—The Secretary shall conduct an energy research, development, demonstration, and technology deployment program to enhance nuclear energy.*

*(b) PROGRAM GOALS.—The program shall—*

*(1) support research related to existing United States nuclear power reactors to extend their lifetimes and increase their reliability while optimizing their current operations for greater efficiencies;*

*(2) examine—*

*(A) advanced proliferation-resistant and passively safe reactor designs;*

*(B) new reactor designs with higher efficiency, lower cost, and improved safety;*

*(C) in coordination with activities carried out under the amendments made by section 1223, designs for a high temperature reactor capable of producing large-scale quantities of hydrogen using thermochemical processes;*

*(D) proliferation-resistant and high-burn-up nuclear fuels;*

*(E) minimization of generation of radioactive materials;*

*(F) improved nuclear waste management technologies; and*

*(G) improved instrumentation science;*

*(3) attract new students and faculty to the nuclear sciences and nuclear engineering and related fields (including health physics and nuclear and radiochemistry) through—*

*(A) university-based fundamental research for existing faculty and new junior faculty;*

*(B) support for the re-licensing of existing training reactors at universities in conjunction with industry; and*

*(C) completing the conversion of existing training reactors with proliferation-resistant fuels that are low enriched and to adapt those reactors to new investigative uses;*

*(4) maintain a national capability and infrastructure to produce medical isotopes and ensure a well trained cadre of nuclear medicine specialists in partnership with industry;*

*(5) ensure that our nation has adequate capability to power future satellite and space missions; and*

*(6) maintain, where appropriate through a prioritization process, a balanced research infrastructure so that future research programs can use these facilities.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) CORE NUCLEAR RESEARCH PROGRAMS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under subsection (b)(1) through (3)—*

*(A) $100,000,000 for fiscal year 2003;*

*(B) $110,000,000 for fiscal year 2004;*

*(C) $120,000,000 for fiscal year 2005; and*

*(D) $130,000,000 for fiscal year 2006.*

*(2) SUPPORTING NUCLEAR ACTIVITIES.—There are authorized to be appropriated to the Secretary for carrying out activities under subsection (b)(4) through (6), as well as nuclear facilities management and program direction—*

*(A) $200,000,000 for fiscal year 2003;*

*(B) $202,000,000 for fiscal year 2004;*

*(C) $207,000,000 for fiscal year 2005; and*

*(D) $212,000,000 for fiscal year 2006.*

***SEC. 1242. UNIVERSITY NUCLEAR SCIENCE AND ENGINEERING SUPPORT.***

*(a) ESTABLISHMENT.—The Secretary shall support a program to maintain the nation's human resource investment and infrastructure in the nuclear sciences and engineering and related fields (including health physics and nuclear and radiochemistry), consistent with departmental missions related to civilian nuclear research and development.*

*(b) DUTIES.—In carrying out the program under this section, the Secretary shall—*

*(1) develop a graduate and undergraduate fellowship program to attract new and talented students;*

*(2) assist universities in recruiting and retaining new faculty in the nuclear sciences and engineering through a Junior Faculty Research Initiation Grant Program;*

*(3) support fundamental nuclear sciences and engineering research through the Nuclear Engineering Education Research Program;*

*(4) encourage collaborative nuclear research between industry, national laboratories and universities through the Nuclear Energy Research Initiative; and*

*(5) support communication and outreach related to nuclear science and engineering.*

*(c) MAINTAINING UNIVERSITY RESEARCH AND TRAINING REACTORS AND ASSOCIATED INFRASTRUCTURE.—Activities under this section may include:*

*(1) Converting research reactors to low-enrichment fuels, upgrading operational instrumentation, and sharing of reactors among universities.*

*(2) Providing technical assistance, in collaboration with the United States nuclear industry, in re-licensing and upgrading training reactors as part of a student training program.*

*(3) Providing funding for reactor improvements as part of a focused effort that emphasizes research, training, and education.*

*(d) UNIVERSITY-NATIONAL LABORATORY INTERACTIONS.—The Secretary shall develop—*

*(1) a sabbatical fellowship program for university professors to spend extended periods of time at National Laboratories in the areas of nuclear science and technology; and*

*(2) a visiting scientist program in which National Laboratory staff can spend time in academic nuclear science and engineering departments. The Secretary may provide for fellowships for students to spend time at National Laboratories in the area of nuclear science with a member of the Laboratory staff acting as a mentor.*

*(e) OPERATING AND MAINTENANCE COSTS.—Funding for a research project provided under this section may be used to offset a portion of the operating and maintenance costs of a university research reactor used in the research project, on a cost-shared basis with the university.*

*(f) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c)(1), the following amounts are authorized for activities under this section—*

*(1) $33,000,000 for fiscal year 2003;*

*(2) $37,900,000 for fiscal year 2004;*

*(3) $43,600,000 for fiscal year 2005; and*

*(4) $50,100,000 for fiscal year 2006.*

***SEC. 1243. NUCLEAR ENERGY RESEARCH INITIATIVE.***

*(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Research Initiative for grants for research relating to nuclear energy.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.*

***SEC. 1244. NUCLEAR ENERGY PLANT OPTIMIZATION PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Plant Optimization Program for grants to improve nuclear energy plant reliability, availability, and productivity. Notwithstanding section 1403, the program shall require industry cost-sharing of at least 50 percent and be subject to annual review by the Nuclear Energy Research Advisory Committee of the Department.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.*

***SEC. 1245. NUCLEAR ENERGY TECHNOLOGY DEVELOPMENT PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary shall support a Nuclear Energy Technology Development Program to develop a technology roadmap to design and develop new nuclear energy powerplants in the United States.*

*(b) GENERATION IV REACTOR STUDY.—The Secretary shall, as part of the program under subsection (a), also conduct a study of Generation IV nuclear energy systems, including development of a technology roadmap and performance of research and development necessary to make an informed technical decision regarding the most promising candidates for commercial deployment. The study shall examine advanced proliferation-resistant and passively safe reactor designs, new reactor designs with higher efficiency, lower cost and improved safety, proliferation-resistant and high burn-up fuels, minimization of generation of radioactive materials, improved nuclear waste management technologies, and improved instrumentation science. Not later than December 31, 2002, the Secretary shall submit to Congress a report describing the results of the study.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized to be appropriated under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as are necessary for each fiscal year.*

***Subtitle E—Fundamental Energy Science***

***SEC. 1251. ENHANCED PROGRAMS IN FUNDAMENTAL ENERGY SCIENCE.***

*(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall—*

*(1) conduct a comprehensive program of fundamental research, including research on chemical sciences, physics, materials sciences, biological and environmental sciences, geosciences, engineering sciences, plasma sciences, mathematics, and advanced scientific computing;*

*(2) maintain, upgrade and expand the scientific user facilities maintained by the Office of Science and ensure that they are an integral part of the departmental mission for exploring the frontiers of fundamental science;*

*(3) maintain a leading-edge research capability in the energy-related aspects of nanoscience and nanotechnology, advanced scientific computing and genome research; and*

*(4) ensure that its fundamental science programs, where appropriate, help inform the applied research and development programs of the Department.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out research, development, demonstration, and technology deployment activities under this subtitle—*

*(1) $3,785,000,000 for fiscal year 2003;*

*(2) $4,153,000,000 for fiscal year 2004;*

*(3) $4,586,000,000 for fiscal year 2005; and*

*(4) $5,000,000,000 for fiscal year 2006.*

***SEC. 1252. NANOSCALE SCIENCE AND ENGINEERING RESEARCH.***

*(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program of research and development in nanoscience and nanoengineering consistent with the Department's statutory authorities related to research and development. The program shall include efforts to further the understanding of the chemistry, physics, materials science and engineering of phenomena on the scale of 1 to 100 nanometers.*

*(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—*

*(1) support both individual investigators and multidisciplinary teams of investigators;*

*(2) pursuant to subsection (c), develop, plan, construct, acquire, or operate special equipment or facilities for the use of investigators conducting research and development in nanoscience and nanoengineering;*

*(3) support technology transfer activities to benefit industry and other users of nanoscience and nanoengineering; and*

*(4) coordinate research and development activities with industry and other Federal agencies.*

*(c) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—*

*(1) AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the amounts specified under subsection (d)(2) shall, subject to appropriations, be available for projects to develop, plan, construct, acquire, or operate special equipment, instrumentation, or facilities for investigators conducting research and development in nanoscience and nanoengineering.*

*(2) PROJECTS.—Projects under paragraph (1) may include the measurement of properties at the scale of 1 to 100 nanometers, manipulation at such scales, and the integration of technologies based on nanoscience or nanoengineering into bulk materials or other technologies.*

*(3) FACILITIES.—Facilities under paragraph (1) may include electron microcharacterization facilities, microlithography facilities, scanning probe facilities and related instrumentation science.*

*(4) COLLABORATION.—The Secretary shall encourage collaborations among universities, laboratories and industry at facilities under this subsection. At least one facility under this subsection shall have a specific mission of technology transfer to other institutions and to industry.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) TOTAL AUTHORIZATION.—From amounts authorized to be appropriated under section 1251(b), the following amounts are authorized for activities under this section—*

*(A) $270,000,000 for fiscal year 2003;*

*(B) $290,000,000 for fiscal year 2004;*

*(C) $310,000,000 for fiscal year 2005; and*

*(D) $330,000,000 for fiscal year 2006.*

*(2) NANOSCIENCE AND NANOENGINEERING RESEARCH CENTERS AND MAJOR INSTRUMENTATION.—Of the amounts under paragraph (1), the following amounts are authorized to carry out subsection (c)—*

*(A) $135,000,000 for fiscal year 2003;*

*(B) $150,000,000 for fiscal year 2004;*

*(C) $120,000,000 for fiscal year 2005; and*

*(D) $100,000,000 for fiscal year 2006.*

***SEC. 1253. ADVANCED SCIENTIFIC COMPUTING FOR ENERGY MISSIONS.***

*(a) ESTABLISHMENT.—The Secretary, acting through the Office of Science, shall support a program to advance the Nation's computing capability across a diverse set of grand challenge computationally based science problems related to departmental missions.*

*(b) DUTIES OF THE OFFICE OF SCIENCE.—In carrying out the program under this section, the Office of Science shall—*

*(1) advance basic science through computation by developing software to solve grand challenge science problems on new generations of computing platforms;*

*(2) enhance the foundations for scientific computing by developing the basic mathematical and computing systems software needed to take full advantage of the computing capabilities of computers with peak speeds of 100 teraflops or more, some of which may be unique to the scientific problem of interest;*

*(3) enhance national collaboratory and networking capabilities by developing software to integrate geographically separated researchers into effective research teams and to facilitate access to and movement and analysis of large (petabyte) data sets; and*

*(4) maintain a robust scientific computing hardware infrastructure to ensure that the computing resources needed to address DOE missions are available; explore new computing approaches and technologies that promise to advance scientific computing.*

*(c) HIGH-PERFORMANCE COMPUTING ACT PROGRAM.—Section 203(a) of the High-Performance Computing Act of 1991 (15 U.S.C. 5523(a)) is amended—*

*(1) in paragraph (3), by striking ''and'';*

*(2) in paragraph (4), by striking the period and inserting ''; and''; and*

*(3) by adding after paragraph (4) the following:*

*''(5) conduct an integrated program of research, development, and provision of facilities to develop and deploy to scientific and technical users the high-performance computing and collaboration tools needed to fulfill the statutory missions of the Department of Energy in conducting basic and applied energy research.''.*

*(d) COORDINATION WITH THE DOE NATIONAL NUCLEAR SECURITY AGENCY ACCELERATED STRATEGIC COMPUTING INITIATIVE AND OTHER NATIONAL COMPUTING PROGRAMS.—The Secretary shall ensure that this program, to the extent feasible, is integrated and consistent with—*

*(1) the Accelerated Strategic Computing Initiative of the National Nuclear Security Agency; and*

*(2) other national efforts related to advanced scientific computing for science and engineering.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), the following amounts are authorized for activities under this section—*

*(1) $285,000,000 for fiscal year 2003;*

*(2) $300,000,000 for fiscal year 2004;*

*(3) $310,000,000 for fiscal year 2005; and*

*(4) $320,000,000 for fiscal year 2006.*

***SEC. 1254. FUSION ENERGY SCIENCES PROGRAM AND PLANNING.***

*(a) OVERALL PLAN FOR FUSION ENERGY SCIENCES PROGRAM.—*

*(1) IN GENERAL.—Not later than 6 months after the date of enactment of this subtitle, the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop and transmit to the Congress a plan to ensure a strong scientific base for the Fusion Energy Sciences Program within the Office of Science and to enable the experiments described in subsections (b) and (c).*

*(2) OBJECTIVES OF PLAN.—The plan under this subsection shall include as its objectives—*

*(A) to ensure that existing fusion research facilities and equipment are more fully utilized with appropriate measurements and control tools;*

*(B) to ensure a strengthened fusion science theory and computational base;*

*(C) to encourage and ensure that the selection of and funding for new magnetic and inertial fusion research facilities is based on scientific innovation and cost effectiveness;*

*(D) to improve the communication of scientific results and methods between the fusion science community and the wider scientific community;*

*(E) to ensure that adequate support is provided to optimize the design of the magnetic fusion burning plasma experiments referred to in subsections (b) and (c); and*

*(F) to ensure that inertial confinement fusion facilities are utilized to the extent practicable for the purpose of inertial fusion energy research and development.*

*(b) PLAN FOR UNITED STATES FUSION EXPERIMENT.—*

*(1) IN GENERAL.—The Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, shall develop a plan for construction in the United States of a magnetic fusion burning plasma experiment for the purpose of accelerating scientific understanding of fusion plasmas. The Secretary shall request a review of the plan by the National Academy of Sciences and shall transmit the plan and the review to the Congress by July 1, 2004.*

*(2) REQUIREMENTS OF PLAN.—The plan described in paragraph (1) shall—*

*(A) address key burning plasma physics issues; and*

*(B) include specific information on the scientific capabilities of the proposed experiment, the relevance of these capabilities to the goal of practical fusion energy, and the overall design of the experiment including its estimated cost and potential construction sites.*

*(c) PLAN FOR PARTICIPATION IN AN INTERNATIONAL EXPERIMENT.—In addition to the plan described in subsection (b), the Secretary, after consultation with the Fusion Energy Sciences Advisory Committee, may also develop a plan for United States participation in an international burning plasma experiment for the same purpose, whose construction is found by the Secretary to be highly likely and where United States participation is cost-effective relative to the cost and scientific benefits of a domestic experiment described in subsection (b). If the Secretary elects to develop a plan under this subsection, he shall include the information described in subsection (b)(2), and an estimate of the cost of United States participation in such an international experiment. The Secretary shall request a review by the National Academy of Sciences of a plan developed under this subsection, and shall transmit the plan and the review to the Congress no later than July 1, 2004.*

*(d) AUTHORIZATION FOR RESEARCH AND DEVELOPMENT.—The Secretary, through the Office of Science, may conduct any research and development necessary to fully develop the plans described in this section.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251, the following amounts are authorized for activities under this section and for activities of the Fusion Energy Science Program—*

*(1) for fiscal year 2003, $335,000,000;*

*(2) for fiscal year 2004, $349,000,000;*

*(3) for fiscal year 2005, $362,000,000; and*

*(4) for fiscal year 2006, $377,000,000.*

***Subtitle F—Energy, Safety, and Environmental Protection***

***SEC. 1261. CRITICAL ENERGY INFRASTRUCTURE PROTECTION RESEARCH AND DEVELOPMENT.***

*(a) IN GENERAL.—The Secretary shall carry out a research, development, demonstration and technology deployment program, in partnership with industry, on critical energy infrastructure protection, consistent with the roles and missions outlined for the Secretary in Presidential Decision Directive 63, entitled ''Critical Infrastructure Protection''. The program shall have the following goals:*

*(1) Increase the understanding of physical and information system disruptions to the energy infrastructure that could result in cascading or widespread regional outages.*

*(2) Develop energy infrastructure assurance ''best practices'' through vulnerability and risk assessments.*

*(3) Protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents within the energy infrastructure.*

*(b) PROGRAM SCOPE.—The program under subsection (a) shall include research, development, deployment, technology demonstration for—*

*(1) analysis of energy infrastructure interdependencies to quantify the impacts of system vulnerabilities in relation to each other;*

*(2) probabilistic risk assessment of the energy infrastructure to account for unconventional and terrorist threats;*

*(3) incident tracking and trend analysis tools to assess the severity of threats and reported incidents to the energy infrastructure; and*

*(4) integrated multisensor, warning and mitigation technologies to detect, integrate, and localize events affecting the energy infrastructure including real time control to permit the reconfiguration of energy delivery systems.*

*(c) REGIONAL COORDINATION.—The program under this section shall cooperate with Departmental activities to promote regional coordination under section 102 of this Act, to ensure that the technologies and assessments developed by the program are transferred in a timely manner to State and local authorities, and to the energy industries.*

*(d) COORDINATION WITH INDUSTRY RESEARCH ORGANIZATIONS.—The Secretary may enter into grants, contracts, and cooperative agreements with industry research organizations to facilitate industry participation in research under this section and to fulfill applicable cost-sharing requirements.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section—*

*(1) $25,000,000 for fiscal year 2003;*

*(2) $26,000,000 for fiscal year 2004;*

*(3) $27,000,000 for fiscal year 2005; and*

*(4) $28,000,000 for fiscal year 2006.*

*(f) CRITICAL ENERGY INFRASTRUCTURE FACILITY DEFINED.—For purposes of this section, the*

*term ''critical energy infrastructure facility'' means a physical or cyber-based system or service for the generation, transmission or distribution of electrical energy, or the production, refining, transportation, or storage of petroleum, natural gas, or petroleum product, the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States. The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104b of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).*

***SEC. 1262. RESEARCH AND DEMONSTRATION FOR REMEDIATION OF GROUNDWATER FROM ENERGY ACTIVITIES.***

*(a) IN GENERAL.—The Secretary shall carry out a research, development, demonstration, and technology deployment program to improve methods for environmental restoration of groundwater contaminated by energy activities, including oil and gas production, surface and underground mining of coal, and in-situ extraction of energy resources.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.*

***TITLE XIII—CLIMATE CHANGE SCIENCE AND TECHNOLOGY***

***Subtitle A—Department of Energy Programs***

***SEC. 1301. DEPARTMENT OF ENERGY GLOBAL CHANGE RESEARCH.***

*(a) PROGRAM DIRECTION.—The Secretary, acting through the Office of Science, shall conduct a comprehensive research program to understand and address the effects of energy production and use on the global climate system.*

*(b) PROGRAM ELEMENTS.—*

*(1) CLIMATE MODELING.—The Secretary shall—*

*(A) conduct observational and analytical research to acquire and interpret the data needed to describe the radiation balance from the surface of the Earth to the top of the atmosphere;*

*(B) determine the factors responsible for the Earth's radiation balance and incorporate improved understanding of such factors in climate models;*

*(C) improve the treatment of aerosols and clouds in climate models;*

*(D) reduce the uncertainty in decade-to-century model-based projections of climate change; and*

*(E) increase the availability and utility of climate change simulations to researchers and policy makers interested in assessing the relationship between energy and climate change.*

*(2) CARBON CYCLE.—The Secretary shall—*

*(A) carry out field research and modeling activities—*

*(i) to understand and document the net exchange of carbon dioxide between major terrestrial ecosystems and the atmosphere; or*

*(ii) to evaluate the potential of proposed methods of carbon sequestration;*

*(B) develop and test carbon cycle models; and*

*(C) acquire data and develop and test models to simulate and predict the transport, transformation, and fate of energy-related emissions in the atmosphere.*

*(3) ECOLOGICAL PROCESSES.—The Secretary shall carry out long-term experiments of the response of intact terrestrial ecosystems to—*

*(A) alterations in climate and atmospheric composition; or*

*(B) land-use changes that affect ecosystem extent and function.*

*(4) INTEGRATED ASSESSMENT.—The Secretary shall develop and improve methods and tools for integrated analyses of the climate change system from emissions of aerosols and greenhouse gases to the consequences of these emissions on climate and the resulting effects of human-induced climate change on economic and social systems, with emphasis on critical gaps in integrated assessment modeling, including modeling of technology innovation and diffusion and the development of metrics of economic costs of climate change and policies for mitigating or adapting to climate change.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1251(b), there are authorized to be appropriated to the Secretary for carrying out activities under this section—*

*(1) $150,000,000 for fiscal year 2003;*

*(2) $175,000,000 for fiscal year 2004;*

*(3) $200,000,000 for fiscal year 2005; and*

*(4) $230,000,000 for fiscal year 2006.*

*(d) LIMITATION ON FUNDS.—Funds authorized to be appropriated under this section shall not be used for the development, demonstration, or deployment of technology to reduce, avoid, or sequester greenhouse gas emissions.*

***SEC. 1302. AMENDMENTS TO THE FEDERAL NONNUCLEAR RESEARCH AND DEVELOPMENT ACT OF 1974.***

*Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—*

*(1) in subsection (a)—*

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

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

*(C) by adding at the end the following:*

*''(4) solutions to the effective management of greenhouse gas emissions in the long term by the development of technologies and practices designed to—*

*''(A) reduce or avoid anthropogenic emissions of greenhouse gases;*

*''(B) remove and sequester greenhouse gases from emissions streams; and*

*''(C) remove and sequester greenhouse gases from the atmosphere.''; and*

*(2) in subsection (b)—*

*(A) in paragraph (2), by striking ''subsection (a)(1) through (3)'' and inserting ''paragraphs (1) through (4) of subsection (a)''; and*

*(B) in paragraph (3)—*

*(i) in subparagraph (R), by striking ''and'' at the end;*

*(ii) in subparagraph (S), by striking the period at the end and inserting ''; and''; and*

*(iii) by adding at the end the following:*

*''(T) to pursue a long-term climate technology strategy designed to demonstrate a variety of technologies by which stabilization of greenhouse gases might be best achieved, including accelerated research, development, demonstration and deployment of—*

*''(i) renewable energy systems;*

*''(ii) advanced fossil energy technology;*

*''(iii) advanced nuclear power plant design;*

*''(iv) fuel cell technology for residential, industrial and transportation applications;*

*''(v) carbon sequestration practices and technologies, including agricultural and forestry practices that store and sequester carbon;*

*''(vi) efficient electrical generation, transmission and distribution technologies; and*

*''(vii) efficient end use energy technologies.''.*

***Subtitle B—Department of Agriculture Programs***

***SEC. 1311. CARBON SEQUESTRATION BASIC AND APPLIED RESEARCH.***

*(a) BASIC RESEARCH.—*

*(1) IN GENERAL.—The Secretary of Agriculture shall carry out research in the areas of soil science that promote understanding of—*

*(A) the net sequestration of organic carbon in soil; and*

*(B) net emissions of other greenhouse gases from agriculture.*

*(2) AGRICULTURAL RESEARCH SERVICE.—The Secretary of Agriculture, acting through the Agricultural Research Service, shall collaborate with other Federal agencies in developing data and carrying out research addressing soil carbon fluxes (losses and gains) and net emissions of methane and nitrous oxide from cultivation and animal management activities.*

*(3) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—*

*(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to carry out research on the matters described in paragraph (1) in land grant universities and other research institutions.*

*(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for basic research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.*

*(b) APPLIED RESEARCH.—*

*(1) IN GENERAL.—The Secretary of Agriculture shall carry out applied research in the areas of soil science, agronomy, agricultural economics and other agricultural sciences to—*

*(A) promote understanding of—*

*(i) how agricultural and forestry practices affect the sequestration of organic and inorganic carbon in soil and net emissions of other greenhouse gases;*

*(ii) how changes in soil carbon pools are cost-effectively measured, monitored, and verified; and*

*(iii) how public programs and private market approaches can be devised to incorporate carbon sequestration in a broader societal greenhouse gas emission reduction effort;*

*(B) develop methods for establishing baselines for measuring the quantities of carbon and other greenhouse gases sequestered; and*

*(C) evaluate leakage and performance issues.*

*(2) REQUIREMENTS.—To the maximum extent practicable, applied research under paragraph (1) shall—*

*(A) draw on existing technologies and methods; and*

*(B) strive to provide methodologies that are accessible to a nontechnical audience.*

*(3) MINIMIZATION OF ADVERSE ENVIRONMENTAL IMPACTS.—All applied research under paragraph (1) shall be conducted with an emphasis on minimizing adverse environmental impacts.*

*(4) NATURAL RESOURCES CONSERVATION SERVICE.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service, shall collaborate with other Federal agencies, including the National Institute of Standards and Technology, in developing new measuring techniques and equipment or adapting existing techniques and equipment to enable cost-effective and accurate monitoring and verification, for a wide range of agricultural and forestry practices, of—*

*(A) changes in soil carbon content in agricultural soils, plants, and trees; and*

*(B) net emissions of other greenhouse gases.*

*(5) COOPERATIVE STATE RESEARCH, EXTENSION, AND EDUCATION SERVICE.—*

*(A) IN GENERAL.—The Secretary of Agriculture, acting through the Cooperative State Research, Extension, and Education Service, shall establish a competitive grant program to encourage research on the matters described in paragraph (1) by land grant universities and other research institutions.*

*(B) CONSULTATION ON RESEARCH TOPICS.—Before issuing a request for proposals for applied research under paragraph (1), the Cooperative State Research, Extension, and Education Service shall consult with the National Resources Conservation Service and the Agricultural Research Service to ensure that proposed research areas are complementary with and do not duplicate research projects underway at the Agricultural Research Service or other Federal agencies.*

*(c) RESEARCH CONSORTIA.—*

*(1) IN GENERAL.—The Secretary of Agriculture may designate not more than two research consortia to carry out research projects under this*

*section, with the requirement that the consortia propose to conduct basic research under subsection (a) and applied research under subsection (b).*

*(2) SELECTION.—The consortia shall be selected in a competitive manner by the Cooperative State Research, Extension, and Education Service.*

*(3) ELIGIBLE CONSORTIUM PARTICIPANTS.—Entities eligible to participate in a consortium include—*

*(A) land grant colleges and universities;*

*(B) private research institutions;*

*(C) State geological surveys;*

*(D) agencies of the Department of Agriculture;*

*(E) research centers of the National Aeronautics and Space Administration and the Department of Energy;*

*(F) other Federal agencies;*

*(G) representatives of agricultural businesses and organizations with demonstrated expertise in these areas; and*

*(H) representatives of the private sector with demonstrated expertise in these areas.*

*(4) RESERVATION OF FUNDING.—If the Secretary of Agriculture designates one or two consortia, the Secretary of Agriculture shall reserve for research projects carried out by the consortium or consortia not more than 25 percent of the amounts made available to carry out this section for a fiscal year.*

*(d) STANDARDS OF PRECISION.—*

*(1) CONFERENCE.—Not later than 3 years after the date of enactment of this subtitle, the Secretary of Agriculture, acting through the Agricultural Research Service and in consultation with the Natural Resources Conservation Service, shall convene a conference of key scientific experts on carbon sequestration and measurement techniques from various sectors (including the Government, academic, and private sectors) to—*

*(A) discuss benchmark standards of precision for measuring soil carbon content and net emissions of other greenhouse gases;*

*(B) designate packages of measurement techniques and modeling approaches to achieve a level of precision agreed on by the participants in the conference; and*

*(C) evaluate results of analyses on baseline, permanence, and leakage issues.*

*(2) DEVELOPMENT OF BENCHMARK STANDARDS.—*

*(A) IN GENERAL.—The Secretary shall develop benchmark standards for measuring the carbon content of soils and plants (including trees) based on—*

*(i) information from the conference under paragraph (1);*

*(ii) research conducted under this section; and*

*(iii) other information available to the Secretary.*

*(B) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary shall provide an opportunity for the public to comment on benchmark standards developed under subparagraph (A).*

*(3) REPORT.—Not later than 180 days after the conclusion of the conference under paragraph (1), the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the conference.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2003 through 2006.*

*(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for competitive grants by the Cooperative State Research, Extension, and Education Service.*

***SEC. 1312. CARBON SEQUESTRATION DEMONSTRATION PROJECTS AND OUTREACH.***

*(a) DEMONSTRATION PROJECTS.—*

*(1) DEVELOPMENT OF MONITORING PROGRAMS.—*

*(A) IN GENERAL.—The Secretary of Agriculture, acting through the Natural Resources Conservation Service and in cooperation with local extension agents, experts from land grant universities, and other local agricultural or conservation organizations, shall develop user-friendly programs that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and net changes in greenhouse gas emissions.*

*(B) BENCHMARK LEVELS OF PRECISION.—The programs developed under subparagraph (A) shall strive to achieve benchmark levels of precision in measurement in a cost-effective manner.*

*(2) PROJECTS.—*

*(A) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, shall establish a program under which projects use the monitoring programs developed under paragraph (1) to demonstrate the feasibility of methods of measuring, verifying, and monitoring—*

*(i) changes in organic carbon content and other carbon pools in agricultural soils, plants, and trees; and*

*(ii) net changes in emissions of other greenhouse gases.*

*(B) EVALUATION OF IMPLICATIONS.—The projects under subparagraph (A) shall include evaluation of the implications for reassessed baselines, carbon or other greenhouse gas leakage, and permanence of sequestration.*

*(C) SUBMISSION OF PROPOSALS.—Proposals for projects under subparagraph (A) shall be submitted by the appropriate agency of each State, in cooperation with interested local jurisdictions and State agricultural and conservation organizations.*

*(D) LIMITATION.—Not more than 10 projects under subparagraph (A) may be approved in conjunction with applied research projects under section 1311(b) until benchmark measurement and assessment standards are established under section 1311(d).*

*(E) NATIONAL FOREST SYSTEM LAND.—The Secretary of Agriculture shall consider the use of National Forest System land as sites to demonstrate the feasibility of monitoring programs developed under paragraph (1).*

*(b) OUTREACH.—*

*(1) IN GENERAL.—The Cooperative State Research, Extension, and Education Service shall widely disseminate information about the economic and environmental benefits that can be generated by adoption of conservation practices (including benefits from increased sequestration of carbon and reduced emission of other greenhouse gases).*

*(2) PROJECT RESULTS.—The Cooperative State Research, Extension, and Education Service shall inform farmers, ranchers, and State agricultural and energy offices in each State of—*

*(A) the results of demonstration projects under subsection (a)(2) in the State; and*

*(B) the ways in which the methods demonstrated in the projects might be applicable to the operations of those farmers and ranchers.*

*(3) POLICY OUTREACH.—On a periodic basis, the Cooperative State Research, Extension, and Education Service shall disseminate information on the policy nexus between global climate change mitigation strategies and agriculture, so that farmers and ranchers may better understand the global implications of the activities of farmers and ranchers.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $10,000,000 for each of fiscal years 2003 through 2006.*

*(2) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, at least 50 percent shall be allocated for demonstration projects under subsection (a)(2).*

***SEC. 1313. CARBON STORAGE AND SEQUESTRATION ACCOUNTING RESEARCH.***

*(a) IN GENERAL.—The Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall conduct research on, develop, and publish as appropriate, carbon storage and sequestration accounting models, reference tables, or other tools that can assist landowners and others in cost-effective and reliable quantification of the carbon release, sequestration, and storage expected to result from various resource uses, land uses, practices, activities or forest, agricultural, or cropland management practices over various periods of time.*

*(b) PILOT PROGRAMS.—The Secretary of Agriculture shall make competitive grants to not more than five eligible entities to carry out pilot programs to demonstrate and assess the potential for development and use of carbon inventories and accounting systems that can assist in developing and assessing carbon storage and sequestration policies and programs. Not later than 1 year after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies and with other interested parties, shall develop guidelines for such pilot programs, including eligibility for awards, application contents, reporting requirements, and mechanisms for peer review.*

*(c) REPORT.—Not later than 5 years after the date of enactment of this section, the Secretary of Agriculture, in collaboration with the heads of other Federal agencies, shall submit to Congress a report on the technical, institutional, infrastructure, design and funding needs to establish and maintain a national carbon storage and sequestration baseline and accounting system. The report shall include documentation of the results of each of the pilot programs.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there are authorized to be appropriated to the Secretary of Agriculture $20,000,000 for fiscal years 2003 through 2007.*

***Subtitle C—International Energy Technology Transfer***

***SEC. 1321. CLEAN ENERGY TECHNOLOGY EXPORTS PROGRAM.***

*(a) DEFINITIONS.—In this section:*

*(1) CLEAN ENERGY TECHNOLOGY.—The term ''clean energy technology'' means an energy supply or end-use technology that, over its lifecycle and compared to a similar technology already in commercial use in developing countries, countries in transition, and other partner countries—*

*(A) emits substantially lower levels of pollutants or greenhouse gases; and*

*(B) may generate substantially smaller or less toxic volumes of solid or liquid waste.*

*(2) INTERAGENCY WORKING GROUP.—The term ''interagency working group'' means the Interagency Working Group on Clean Energy Technology Exports established under subsection (b).*

*(b) INTERAGENCY WORKING GROUP.—*

*(1) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Energy, the Secretary of Commerce, and the Administrator of the United States Agency for International Development shall jointly establish a Interagency Working Group on Clean Energy Technology Exports. The interagency working group will focus on opening and expanding energy markets and transferring clean energy technology to the developing countries, countries in transition, and other partner countries that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse gas emissions, including through technology transfer programs under the Framework Convention on Climate Change, other international agreements, and relevant Federal efforts.*

*(2) MEMBERSHIP.—The interagency working group shall be jointly chaired by representatives appointed by the agency heads under paragraph (1) and shall also include representatives from the Department of State, the Department of the Treasury, the Environmental Protection Agency, the Export-Import Bank, the Overseas*

*Private Investment Corporation, the Trade and Development Agency, and other Federal agencies as deemed appropriate by all three agency heads under paragraph (1).*

*(3) DUTIES.—The interagency working group shall—*

*(A) analyze technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology;*

*(B) investigate issues associated with building capacity to deploy clean energy technology in developing countries, countries in transition, and other partner countries, including—*

*(i) energy-sector reform;*

*(ii) creation of open, transparent, and competitive markets for energy technologies;*

*(iii) availability of trained personnel to deploy and maintain the technology; and*

*(iv) demonstration and cost-buydown mechanisms to promote first adoption of the technology;*

*(C) examine relevant trade, tax, international, and other policy issues to assess what policies would help open markets and improve United States clean energy technology exports in support of the following areas—*

*(i) enhancing energy innovation and cooperation, including energy sector and market reform, capacity building, and financing measures;*

*(ii) improving energy end-use efficiency technologies, including buildings and facilities, vehicle, industrial, and co-generation technology initiatives; and*

*(iii) promoting energy supply technologies, including fossil, nuclear, and renewable technology initiatives;*

*(D) establish an advisory committee involving the private sector and other interested groups on the export and deployment of clean energy technology;*

*(E) monitor each agency's progress towards meeting goals in the 5-year strategic plan submitted to Congress pursuant to the Energy and Water Development Appropriations Act, 2001, and the Energy and Water Development Appropriations Act, 2002;*

*(F) make recommendations to heads of appropriate Federal agencies on ways to streamline Federal programs and policies to improve each agency's role in the international development, demonstration, and deployment of clean energy technology;*

*(G) make assessments and recommendations regarding the distinct technological, market, regional, and stakeholder challenges necessary to carry out the program; and*

*(H) recommend conditions and criteria that will help ensure that United States funds promote sound energy policies in participating countries while simultaneously opening their markets and exporting United States energy technology.*

*(c) FEDERAL SUPPORT FOR CLEAN ENERGY TECHNOLOGY TRANSFER.—Notwithstanding any other provision of law, each Federal agency or Government corporation carrying out an assistance program in support of the activities of United States persons in the environment or energy sector of a developing country, country in transition, or other partner country shall support, to the maximum extent practicable, the transfer of United States clean energy technology as part of that program.*

*(d) ANNUAL REPORT.—Not later than 90 days after the date of the enactment of this Act, and on April 1st of each year thereafter, the Interagency Working Group shall submit a report to Congress on its activities during the preceding calendar year. The report shall include a description of the technology, policy, and market opportunities for international development, demonstration, and deployment of clean energy technology investigated by the Interagency Working Group in that year, as well as any policy recommendations to improve the expansion of clean energy markets and United States clean energy technology exports.*

*(e) REPORT ON USE OF FUNDS.—Not later than October 1, 2002, and each year thereafter, the Secretary of State, in consultation with other Federal agencies, shall submit a report to Congress indicating how United States funds appropriated for clean energy technology exports and other relevant Federal programs are being directed in a manner that promotes sound energy policy commitments in developing countries, countries in transition, and other partner countries, including efforts pursuant to multilateral environmental agreements.*

*(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the departments, agencies, and entities of the United States described in subsection (b) such sums as may be necessary to support the transfer of clean energy technology, consistent with the subsidy codes of the World Trade Organization, as part of assistance programs carried out by those departments, agencies, and entities in support of activities of United States persons in the energy sector of a developing country, country in transition, or other partner country.*

***SEC. 1322. INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.***

*Section 1608 of the Energy Policy Act of 1992 (42 U.S.C. 13387) is amended by striking subsection (l) and inserting the following:*

*''(l) INTERNATIONAL ENERGY TECHNOLOGY DEPLOYMENT PROGRAM.—*

*''(1) DEFINITIONS.—In this subsection:*

*''(A) INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'international energy deployment project' means a project to construct an energy production facility outside the United States—*

*''(i) the output of which will be consumed outside the United States; and*

*''(ii) the deployment of which will result in a greenhouse gas reduction per unit of energy produced when compared to the technology that would otherwise be implemented—*

*''(I) 10 percentage points or more, in the case of a unit placed in service before January 1, 2010;*

*''(II) 20 percentage points or more, in the case of a unit placed in service after December 31, 2009, and before January 1, 2020; or*

*''(III) 30 percentage points or more, in the case of a unit placed in service after December 31, 2019, and before January 1, 2030.*

*''(B) QUALIFYING INTERNATIONAL ENERGY DEPLOYMENT PROJECT.—The term 'qualifying international energy deployment project' means an international energy deployment project that—*

*''(i) is submitted by a United States firm to the Secretary in accordance with procedures established by the Secretary by regulation;*

*''(ii) uses technology that has been successfully developed or deployed in the United States;*

*''(iii) meets the criteria of subsection (k);*

*''(iv) is approved by the Secretary, with notice of the approval being published in the Federal Register; and*

*''(v) complies with such terms and conditions as the Secretary establishes by regulation.*

*''(C) UNITED STATES.—For purposes of this paragraph, the term 'United States', when used in a geographical sense, means the 50 States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.*

*''(2) PILOT PROGRAM FOR FINANCIAL ASSISTANCE.—*

*''(A) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall, by regulation, provide for a pilot program for financial assistance for qualifying international energy deployment projects.*

*''(B) SELECTION CRITERIA.—After consultation with the Secretary of State, the Secretary of Commerce, and the United States Trade Representative, the Secretary shall select projects for participation in the program based solely on the criteria under this title and without regard to the country in which the project is located.*

*''(C) FINANCIAL ASSISTANCE.—*

*''(i) IN GENERAL.—A United States firm that undertakes a qualifying international energy deployment project that is selected to participate in the pilot program shall be eligible to receive a loan or a loan guarantee from the Secretary.*

*''(ii) RATE OF INTEREST.—The rate of interest of any loan made under clause (i) shall be equal to the rate for Treasury obligations then issued for periods of comparable maturities.*

*''(iii) AMOUNT.—The amount of a loan or loan guarantee under clause (i) shall not exceed 50 percent of the total cost of the qualified international energy deployment project.*

*''(iv) DEVELOPED COUNTRIES.—Loans or loan guarantees made for projects to be located in a developed country, as listed in Annex I of the United Nations Framework Convention on Climate Change, shall require at least a 50 percent contribution towards the total cost of the loan or loan guarantee by the host country.*

*''(v) DEVELOPING COUNTRIES.—Loans or loan guarantees made for projects to be located in a developing country (those countries not listed in Annex I of the United Nations Framework Convention on Climate Change) shall require at least a 10 percent contribution towards the total cost of the loan or loan guarantee by the host country.*

*''(vi) CAPACITY BUILDING RESEARCH.—Proposals made for projects to be located in a developing country may include a research component intended to build technological capacity within the host country. Such research must be related to the technologies being deployed and must involve both an institution in the host country and an industry, university or national laboratory participant from the United States. The host institution shall contribute at least 50 percent of funds provided for the capacity building research.*

*''(D) COORDINATION WITH OTHER PROGRAMS.—A qualifying international energy deployment project funded under this section shall not be eligible as a qualifying clean coal technology under section 415 of the Clean Air Act (42 U.S.C. 7651n).*

*''(E) REPORT.—Not later than 5 years after the date of enactment of this subsection, the Secretary shall submit to the President a report on the results of the pilot projects.*

*''(F) RECOMMENDATION.—Not later than 60 days after receiving the report under subparagraph (E), the President shall submit to Congress a recommendation, based on the results of the pilot projects as reported by the Secretary of Energy, concerning whether the financial assistance program under this section should be continued, expanded, reduced, or eliminated.*

*''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section $100,000,000 for each of fiscal years 2003 through 2011, to remain available until expended.''.*

***Subtitle D—Climate Change Science and Information***

***PART I—AMENDMENTS TO THE GLOBAL CHANGE RESEARCH ACT OF 1990***

***SEC. 1331. AMENDMENT OF GLOBAL CHANGE RESEARCH ACT OF 1990.***

*Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).*

***SEC. 1332. CHANGES IN DEFINITIONS.***

*Paragraph (1) of section 2 (15 U.S.C. 2921) is amended by striking ''Earth and Environmental Sciences'' inserting ''Global Change Research''.*

***SEC. 1333. CHANGE IN COMMITTEE NAME AND STRUCTURE.***

*Section 102 (15 U.S.C. 2932) is amended—*

*(1) by striking ''**earth and environmental sciences**'' in the section heading and inserting ''**global change research**'';*

(2) by striking ''Earth and Environmental Sciences'' in subsection (a) and inserting ''Global Change Research'';

(3) by striking the last sentence of subsection (b) and inserting ''The representatives shall be the Deputy Secretary or the Deputy Secretary's designee (or, in the case of an agency other than a department, the deputy head of that agency or the deputy's designee).'';

(4) by striking ''Chairman of the Council,'' in subsection (c) and inserting ''Director of the Office of National Climate Change Policy with advice from the Chairman of the Council, and'';

(5) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

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

''(d) SUBCOMMITTEES AND WORKING GROUPS.—

''(1) IN GENERAL.—There shall be a Subcommittee on Global Change Research, which shall carry out such functions of the Committee as the Committee may assign to it.

''(2) MEMBERSHIP.—The membership of the Subcommittee shall consist of—

''(A) the membership of the Subcommittee on Global Change Research of the Committee on Environment and Natural Resources (the functions of which are transferred to the Subcommittee established by this subsection) established by the National Science and Technology Council; and

''(B) such additional members as the Chair of the Committee may, from time to time, appoint.

''(3) CHAIR.—A high ranking official of one of the departments or agencies described in subsection (b), appointed by the Chair of the Committee with advice from the Chairman of the Council, shall chair the subcommittee. The Chairperson shall be knowledgeable and experienced with regard to the administration of scientific research programs, and shall be a representative of an agency that contributes substantially, in terms of scientific research capability and budget, to the Program.

''(4) OTHER SUBCOMMITTEES AND WORKING GROUPS.—The Committee may establish such additional subcommittees and working groups as it sees fit.''.

**SEC. 1334. CHANGE IN NATIONAL GLOBAL CHANGE RESEARCH PLAN.**

Section 104 (15 U.S.C. 2934) is amended—

(1) by inserting ''short-term and long-term'' before ''goals'' in subsection (b)(1);

(2) by striking ''usable information on which to base policy decisions related to'' in subsection (b)(1) and inserting ''information relevant and readily usable by local, State, and Federal decisionmakers, as well as other end-users, for the formulation of effective decisions and strategies for measuring, predicting, preventing, mitigating, and adapting to'';

(3) by adding at the end of subsection (c) the following:

''(6) Methods for integrating information to provide predictive and other tools for planning and decisionmaking by governments, communities and the private sector.'';

(4) by striking subsection (d)(3) and inserting the following:

''(3) combine and interpret data from various sources to produce information readily usable by local, State, and Federal policymakers, and other end-users, attempting to formulate effective decisions and strategies for preventing, mitigating, and adapting to the effects of global change.'';

(5) by striking ''and'' in subsection (d)(2);

(6) by striking ''change.'' in subsection (d)(3) and inserting ''change; and'';

(7) by adding at the end of subsection (d) the following:

''(4) establish a common assessment and modeling framework that may be used in both research and operations to predict and assess the vulnerability of natural and managed ecosystems and of human society in the context of other environmental and social changes.''; and

(8) by adding at the end the following:

''(g) STRATEGIC PLAN; REVISED IMPLEMENTATION PLAN.—The Chairman of the Council, through the Committee, shall develop a strategic plan for the United States Global Climate Change Research Program for the 10-year period beginning in 2002 and submit the plan to the Congress within 180 days after the date of enactment of the Global Climate Change Act of 2002. The Chairman, through the Committee, shall also submit revised implementation plans as required under subsection (a).''.

**SEC. 1335. INTEGRATED PROGRAM OFFICE.**

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsections (a), (b), and (c) as subsections (b), (c), and (d), respectively; and

(2) by inserting before subsection (b), as redesignated, the following:

''(a) INTEGRATED PROGRAM OFFICE.—

''(1) ESTABLISHMENT.—There is established in the Office of Science and Technology Policy an integrated program office for the global change research program.

''(2) ORGANIZATION.—The integrated program office established under paragraph (1) shall be headed by the associate director with responsibility for climate change science and technology and shall include, to the maximum extent feasible, a representative from each Federal agency participating in the global change research program.

''(3) FUNCTION.—The integrated program office shall—

''(A) manage, working in conjunction with the Committee, interagency coordination and program integration of global change research activities and budget requests;

''(B) ensure that the activities and programs of each Federal agency or department participating in the program address the goals and objectives identified in the strategic research plan and interagency implementation plans;

''(C) ensure program and budget recommendations of the Committee are communicated to the President and are integrated into the climate change action strategy;

''(D) review, solicit, and identify, and allocate funds for, partnership projects that address critical research objectives or operational goals of the program, including projects that would fill research gaps identified by the program, and for which project resources are shared among at least two agencies participating in the program; and

''(E) review and provide recommendations on, in conjunction with the Committee, all annual appropriations requests from Federal agencies or departments participating in the program.'';

(3) by striking ''Committee.'' in paragraph (2) of subsection (c), as redesignated, and inserting ''Committee and the Integrated Program Office.''; and

(4) by inserting ''and the Integrated Program Office'' after ''Committee'' in paragraph (1) of subsection (d), as redesignated.

**SEC. 1336. RESEARCH GRANTS.**

Section 105 (15 U.S.C. 2935) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

''(c) RESEARCH GRANTS.—

''(1) COMMITTEE TO DEVELOP LIST OF PRIORITY RESEARCH AREAS.—The Committee shall develop a list of priority areas for research and development on climate change that are not being addressed by Federal agencies.

''(2) DIRECTOR OF OSTP TO TRANSMIT LIST TO NSF.—The Director of the Office of Science and Technology Policy shall transmit the list to the National Science Foundation.

''(3) FUNDING THROUGH NSF.—

''(A) BUDGET REQUEST.—The National Science Foundation shall include, as part of the annual request for appropriations for the Science and Technology Policy Institute, a request for appropriations to fund research in the priority areas on the list developed under paragraph (1).

''(B) AUTHORIZATION.—For fiscal year 2003 and each fiscal year thereafter, there are authorized to be appropriated to the National Science Foundation not less than $17,000,000, to be made available through the Science and Technology Policy Institute, for research in those priority areas.''.

**SEC. 1337. EVALUATION OF INFORMATION.**

Section 106 (15 U.S.C. 2936) is amended—

(1) by striking ''**Scientific**'' in the section heading;

(2) by striking ''and'' after the semicolon in paragraph (2); and

(3) by striking ''years.'' in paragraph (3) and inserting ''years; and''; and

(4) by adding at the end the following:

''(4) evaluates the information being developed under this title, considering in particular its usefulness to local, State, and national decisionmakers, as well as to other stakeholders such as the private sector, after providing a meaningful opportunity for the consideration of the views of such stakeholders on the effectiveness of the Program and the usefulness of the information.''.

**PART II—NATIONAL CLIMATE SERVICES AND MONITORING**

**SEC. 1341. AMENDMENT OF NATIONAL CLIMATE PROGRAM ACT.**

Except as otherwise expressly provided, whenever in this subtitle an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Climate Program Act (15 U.S.C. 2901 et seq.).

**SEC. 1342. CHANGES IN FINDINGS.**

Section 2 (15 U.S.C. 2901) is amended—

(1) by striking ''Weather and climate change affect'' in paragraph (1) and inserting ''Weather, climate change, and climate variability affect public safety, environmental security, human health,'';

(2) by striking ''climate'' in paragraph (2) and inserting ''climate, including seasonal and decadal fluctuations,'';

(3) by striking ''changes.'' in paragraph (5) and inserting ''changes and providing free exchange of meteorological data.''; and

(4) by adding at the end the following:

''(7) The present rate of advance in research and development and application of such advances is inadequate and new developments must be incorporated rapidly into services for the benefit of the public.

''(8) The United States lacks adequate infrastructure and research to meet national climate monitoring and prediction needs.''.

**SEC. 1343. TOOLS FOR REGIONAL PLANNING.**

Section 5(d) (15 U.S.C. 2904(d)) is amended—

(1) by redesignating paragraphs (4) through (9) as paragraphs (5) through (10), respectively;

(2) by inserting after paragraph (3) the following:

''(4) methods for improving modeling and predictive capabilities and developing assessment methods to guide national, regional, and local planning and decisionmaking on land use, water hazards, and related issues;'';

(3) by inserting ''sharing,'' after ''collection,'' in paragraph (5), as redesignated;

(4) by striking ''experimental'' each place it appears in paragraph (9), as redesignated;

(5) by striking ''preliminary'' in paragraph (10), as redesignated;

(6) by striking ''this Act,'' the first place it appears in paragraph (10), as redesignated, and inserting ''the Global Climate Change Act of 2002,''; and

(7) by striking ''this Act,'' the second place it appears in paragraph (10), as redesignated, and inserting ''that Act,''.

**SEC. 1344. AUTHORIZATION OF APPROPRIATIONS.**

Section 9 (15 U.S.C. 2908) is amended—

(1) by striking ''1979,'' and inserting ''2002,'';

(2) by striking ''1980,'' and inserting ''2003,'';

*(3) by striking ''1981,'' and inserting ''2004,''; and*

*(4) by striking ''$25,500,000'' and inserting ''$75,500,000''.*

***SEC. 1345. NATIONAL CLIMATE SERVICE PLAN.***

*The Act (15 U.S.C. 2901 et seq.) is amended by inserting after section 5 the following:*

***''SEC. 6. NATIONAL CLIMATE SERVICE PLAN.***

*''Within 1 year after the date of enactment of the Global Climate Change Act of 2002, the Secretary of Commerce shall submit to the Senate Committee on Commerce, Science, and Transportation and the House Science Committee a plan of action for a National Climate Service under the National Climate Program. The plan shall set forth recommendations and funding estimates for—*

*''(1) a national center for operational climate monitoring and predicting with the functional capacity to monitor and adjust observing systems as necessary to reduce bias;*

*''(2) the design, deployment, and operation of an adequate national climate observing system that builds upon existing environmental monitoring systems and closes gaps in coverage by existing systems;*

*''(3) the establishment of a national coordinated modeling strategy, including a national climate modeling center to provide a dedicated capability for climate modeling and a regular schedule of projections on a long- and short-term time schedule and at a range of spatial scales;*

*''(4) improvements in modeling and assessment capabilities needed to integrate information to predict regional and local climate changes and impacts;*

*''(5) in coordination with the private sector, improving the capacity to assess the impacts of predicted and projected climate changes and variations;*

*''(6) a program for long-term stewardship, quality control, development of relevant climate products, and efficient access to all relevant climate data, products, and critical model simulations; and*

*''(7) mechanisms to coordinate among Federal agencies, State, and local government entities and the academic community to ensure timely and full sharing and dissemination of climate information and services, both domestically and internationally.''.*

***SEC. 1346. INTERNATIONAL PACIFIC RESEARCH AND COOPERATION.***

*The Secretary of Commerce, in cooperation with the Administrator of the National Aeronautics and Space Administration, shall conduct international research in the Pacific region that will increase understanding of the nature and predictability of climate variability in the Asia-Pacific sector, including regional aspects of global environmental change. Such research activities shall be conducted in cooperation with other nations of the region. There are authorized to be appropriated for purposes of this section $1,500,000 to the National Oceanic and Atmospheric Administration, $1,500,000 to the National Aeronautics and Space Administration, and $500,000 for the Pacific ENSO Applications Center.*

***SEC. 1347. REPORTING ON TRENDS.***

*(a) ATMOSPHERIC MONITORING AND VERIFICATION PROGRAM.—The Secretary of Commerce, in coordination with relevant Federal agencies, shall, as part of the National Climate Service, establish an atmospheric monitoring and verification program utilizing aircraft, satellite, ground sensors, and modeling capabilities to monitor, measure, and verify atmospheric greenhouse gas levels, dates, and emissions. Where feasible, the program shall measure emissions from identified sources participating in the reporting system for verification purposes. The program shall use measurements and standards that are consistent with those utilized in the greenhouse gas measurement and reporting system established under subsection (a) and the registry established under section 1102.*

*(b) ANNUAL REPORTING.—The Secretary of Commerce shall issue an annual report that identifies greenhouse emissions and trends on a local, regional, and national level. The report shall also identify emissions or reductions attributable to individual or multiple sources covered by the greenhouse gas measurement and reporting system established under section 1102.*

***SEC. 1348. ARCTIC RESEARCH AND POLICY.***

*(a) ARCTIC RESEARCH COMMISSION.—Section 103(d) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4102(d)) is amended—*

*(1) by striking ''exceed 90 days'' in the second sentence of paragraph (1) and inserting ''exceed, in the case of the chairperson of the Commission, 120 days, and, in the case of any other member of the Commission, 90 days,'';*

*(2) by striking ''Chairman'' in paragraph (2) and inserting ''chairperson''.*

*(b) GRANTS.—Section 104 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4103) is amended by adding at the end the following:*

*''(c) FUNDING FOR ARCTIC RESEARCH.—*

*''(1) IN GENERAL.—With the prior approval of the commission, or under authority delegated by the Commission, and subject to such conditions as the Commission may specify, the Executive Director appointed under section 106(a) may—*

*''(A) make grants to persons to conduct research concerning the Arctic; and*

*''(B) make funds available to the National Science Foundation or to Federal agencies for the conduct of research concerning the Arctic.*

*''(2) EFFECT OF ACTION BY EXECUTIVE DIRECTOR.—An action taken by the executive director under paragraph (1) shall be final and binding on the Commission.*

*''(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this section.''.*

***SEC. 1349. ABRUPT CLIMATE CHANGE RESEARCH.***

*(a) IN GENERAL.—The Secretary of Commerce, through the National Oceanic and Atmospheric Administration, shall carry out a program of scientific research on potential abrupt climate change designed—*

*(1) to develop a global array of terrestrial and oceanographic indicators of paleoclimate in order sufficiently to identify and describe past instances of abrupt climate change;*

*(2) to improve understanding of thresholds and nonlinearities in geophysical systems related to the mechanisms of abrupt climate change;*

*(3) to incorporate these mechanisms into advanced geophysical models of climate change; and*

*(4) to test the output of these models against an improved global array of records of past abrupt climate changes.*

*(b) ABRUPT CLIMATE CHANGE DEFINED.—In this section, the term ''abrupt climate change'' means a change in climate that occurs so rapidly or unexpectedly that human or natural systems may have difficulty adapting to it.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $10,000,000 for each of the fiscal years 2003 through 2008, and such sums as may be necessary for fiscal years after fiscal year 2008, to carry out subsection (a).*

***PART III—OCEAN AND COASTAL OBSERVING SYSTEM***

***SEC. 1351. OCEAN AND COASTAL OBSERVING SYSTEM.***

*(a) ESTABLISHMENT.—The President, through the National Ocean Research Leadership Council, established by section 7902(a) of title 10, United States Code, shall establish and maintain an integrated ocean and coastal observing system that provides for long-term, continuous, and real-time observations of the oceans and coasts for the purposes of—*

*(1) understanding, assessing and responding to human-induced and natural processes of global change;*

*(2) improving weather forecasts and public warnings;*

*(3) strengthening national security and military preparedness;*

*(4) enhancing the safety and efficiency of marine operations;*

*(5) supporting efforts to restore the health of and manage coastal and marine ecosystems and living resources;*

*(6) monitoring and evaluating the effectiveness of ocean and coastal environmental policies;*

*(7) reducing and mitigating ocean and coastal pollution; and*

*(8) providing information that contributes to public awareness of the state and importance of the oceans.*

*(b) COUNCIL FUNCTIONS.—In addition to its responsibilities under section 7902(a) of such title, the Council shall be responsible for planning and coordinating the observing system and in carrying out this responsibility shall—*

*(1) develop and submit to the Congress, within 6 months after the date of enactment of this Act, a plan for implementing a national ocean and coastal observing system that—*

*(A) uses an end-to-end engineering and development approach to develop a system design and schedule for operational implementation;*

*(B) determines how current and planned observing activities can be integrated in a cost-effective manner;*

*(C) provides for regional and concept demonstration projects;*

*(D) describes the role and estimated budget of each Federal agency in implementing the plan;*

*(E) contributes, to the extent practicable, to the National Global Change Research Plan under section 104 of the Global Change Research Act of 1990 (15 U.S.C. 2934); and*

*(F) makes recommendations for coordination of ocean observing activities of the United States with those of other nations and international organizations;*

*(2) serve as the mechanism for coordinating Federal ocean observing requirements and activities;*

*(3) work with academic, State, industry and other actual and potential users of the observing system to make effective use of existing capabilities and incorporate new technologies;*

*(4) approve standards and protocols for the administration of the system, including—*

*(A) a common set of measurements to be collected and distributed routinely and by uniform methods;*

*(B) standards for quality control and assessment of data;*

*(C) design, testing and employment of forecast models for ocean conditions;*

*(D) data management, including data transfer protocols and archiving; and*

*(E) designation of coastal ocean observing regions; and*

*(5) in consultation with the Secretary of State, provide representation at international meetings on ocean observing programs and coordinate relevant Federal activities with those of other nations.*

*(c) SYSTEM ELEMENTS.—The integrated ocean and coastal observing system shall include the following elements:*

*(1) A nationally coordinated network of regional coastal ocean observing systems that measure and disseminate a common set of ocean observations and related products in a uniform manner and according to sound scientific practice, but that are adapted to local and regional needs.*

*(2) Ocean sensors for climate observations, including the Arctic Ocean and sub-polar seas.*

*(3) Coastal, relocatable, and cabled sea floor observatories.*

*(4) Broad bandwidth communications that are capable of transmitting high volumes of data from open ocean locations at low cost and in real time.*

*(5) Ocean data management and assimilation systems that ensure full use of new sources of data from space-borne and in situ sensors.*

*(6) Focused research programs.*

*(7) Technology development program to develop new observing technologies and techniques, including data management and dissemination.*

*(8) Public outreach and education.*

***SEC. 1352. AUTHORIZATION OF APPROPRIATIONS.***

*For development and implementation of an integrated ocean and coastal observation system under this title, including financial assistance to regional coastal ocean observing systems, there are authorized to be appropriated $235,000,000 in fiscal year 2003, $315,000,000 in fiscal year 2004, $390,000,000 in fiscal year 2005, and $445,000,000 in fiscal year 2006.*

***Subtitle E—Climate Change Technology***

***SEC. 1361. NIST GREENHOUSE GAS FUNCTIONS.***

*Section 2(c) of the National Institute of Standards and Technology Act (15 U.S.C. 272(c)) is amended—*

*(1) by striking ''and'' after the semicolon in paragraph (21);*

*(2) by redesignating paragraph (22) as paragraph (23); and*

*(3) by inserting after paragraph (21) the following:*

*''(22) perform research to develop enhanced measurements, calibrations, standards, and technologies which will enable the reduced production in the United States of greenhouse gases associated with global warming, including carbon dioxide, methane, nitrous oxide, ozone, perfluorocarbons, hydrofluorocarbons, and sulfur hexafluoride; and''.*

***SEC. 1362. DEVELOPMENT OF NEW MEASUREMENT TECHNOLOGIES.***

*The Secretary of Commerce shall initiate a program to develop, with technical assistance from appropriate Federal agencies, innovative standards and measurement technologies (including technologies to measure carbon changes due to changes in land use cover) to calculate—*

*(1) greenhouse gas emissions and reductions from agriculture, forestry, and other land use practices;*

*(2) noncarbon dioxide greenhouse gas emissions from transportation;*

*(3) greenhouse gas emissions from facilities or sources using remote sensing technology; and*

*(4) any other greenhouse gas emission or reductions for which no accurate or reliable measurement technology exists.*

***SEC. 1363. ENHANCED ENVIRONMENTAL MEASUREMENTS AND STANDARDS.***

*The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—*

*(1) by redesignating sections 17 through 32 as sections 18 through 33, respectively; and*

*(2) by inserting after section 16 the following:*

***"SEC. 17. CLIMATE CHANGE STANDARDS AND PROCESSES.***

*''(a) IN GENERAL.—The Director shall establish within the Institute a program to perform and support research on global climate change standards and processes, with the goal of providing scientific and technical knowledge applicable to the reduction of greenhouse gases (as defined in section 4 of the Global Climate Change Act of 2002).*

*''(b) RESEARCH PROGRAM.—*

*''(1) IN GENERAL.—The Director is authorized to conduct, directly or through contracts or grants, a global climate change standards and processes research program.*

*''(2) RESEARCH PROJECTS.—The specific contents and priorities of the research program shall be determined in consultation with appropriate Federal agencies, including the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, and the National Aeronautics and Space Administration. The program generally shall include basic and applied research—*

*''(A) to develop and provide the enhanced measurements, calibrations, data, models, and reference material standards which will enable the monitoring of greenhouse gases;*

*''(B) to assist in establishing a baseline reference point for future trading in greenhouse gases and the measurement of progress in emissions reduction;*

*''(C) that will be exchanged internationally as scientific or technical information which has the stated purpose of developing mutually recognized measurements, standards, and procedures for reducing greenhouse gases; and*

*''(D) to assist in developing improved industrial processes designed to reduce or eliminate greenhouse gases.*

*''(c) NATIONAL MEASUREMENT LABORATORIES.—*

*''(1) IN GENERAL.—In carrying out this section, the Director shall utilize the collective skills of the National Measurement Laboratories of the National Institute of Standards and Technology to improve the accuracy of measurements that will permit better understanding and control of these industrial chemical processes and result in the reduction or elimination of greenhouse gases.*

*''(2) MATERIAL, PROCESS, AND BUILDING RESEARCH.—The National Measurement Laboratories shall conduct research under this subsection that includes—*

*''(A) developing material and manufacturing processes which are designed for energy efficiency and reduced greenhouse gas emissions into the environment;*

*''(B) developing environmentally-friendly, 'green' chemical processes to be used by industry; and*

*''(C) enhancing building performance with a focus in developing standards or tools which will help incorporate low- or no-emission technologies into building designs.*

*''(3) STANDARDS AND TOOLS.—The National Measurement Laboratories shall develop standards and tools under this subsection that include software to assist designers in selecting alternate building materials, performance data on materials, artificial intelligence-aided design procedures for building subsystems and 'smart buildings', and improved test methods and rating procedures for evaluating the energy performance of residential and commercial appliances and products.*

*''(d) NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM.—The Director shall utilize the National Voluntary Laboratory Accreditation Program under this section to establish a program to include specific calibration or test standards and related methods and protocols assembled to satisfy the unique needs for accreditation in measuring the production of greenhouse gases. In carrying out this subsection the Director may cooperate with other departments and agencies of the Federal Government, State and local governments, and private organizations.''.*

***SEC. 1364. TECHNOLOGY DEVELOPMENT AND DIFFUSION.***

*The Director of the National Institute of Standards and Technology, through the Manufacturing Extension Partnership Program, may develop a program to support the implementation of new ''green'' manufacturing technologies and techniques by the more than 380,000 small manufacturers.*

***SEC. 1365. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated to the Director to carry out functions pursuant to sections 1345, 1351, and 1361 through 1363, $10,000,000 for fiscal years 2002 through 2006.*

***Subtitle F—Climate Adaptation and Hazards Prevention***

***PART I—ASSESSMENT AND ADAPTATION***

***SEC. 1371. REGIONAL CLIMATE ASSESSMENT AND ADAPTATION PROGRAM.***

*(a) IN GENERAL.—The President shall establish within the Department of Commerce a National Climate Change Vulnerability and Adaptation Program for regional impacts related to increasing concentrations of greenhouse gases in the atmosphere and climate variability.*

*(b) COORDINATION.—In designing such program the Secretary shall consult with the Federal Emergency Management Agency, the Environmental Protection Agency, the Army Corps of Engineers, the Department of Transportation, and other appropriate Federal, State, and local government entities.*

*(c) VULNERABILITY ASSESSMENTS.—The program shall—*

*(1) evaluate, based on predictions and other information developed under this Act and the National Climate Program Act (15 U.S.C. 2901 et seq.), regional vulnerability to phenomena associated with climate change and climate variability, including—*

*(A) increases in severe weather events;*

*(B) sea level rise and shifts in the hydrological cycle;*

*(C) natural hazards, including tsunami, drought, flood and fire; and*

*(D) alteration of ecological communities, including at the ecosystem or watershed levels; and*

*(2) build upon predictions and other information developed in the National Assessments prepared under the Global Change Research Act of 1990 (15 U.S.C. 2921 et seq.).*

*(d) PREPAREDNESS RECOMMENDATIONS.—The program shall submit a report to Congress within 2 years after the date of enactment of this Act that identifies and recommends implementation and funding strategies for short- and long-term actions that may be taken at the national, regional, State, and local level—*

*(1) to reduce vulnerability of human life and property;*

*(2) to improve resilience to hazards;*

*(3) to minimize economic impacts; and*

*(4) to reduce threats to critical biological and ecological processes.*

*(e) INFORMATION AND TECHNOLOGY.—The Secretary shall make available appropriate information and other technologies and products that will assist national, regional, State, and local efforts, as well as efforts by other end-users, to reduce loss of life and property, and coordinate dissemination of such technologies and products.*

*(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $4,500,000 to implement the requirements of this section.*

***SEC. 1372. COASTAL VULNERABILITY AND ADAPTATION.***

*(a) COASTAL VULNERABILITY.—Within 2 years after the date of enactment of this Act, the Secretary shall, in consultation with the appropriate Federal, State, and local governmental entities, conduct regional assessments of the vulnerability of coastal areas to hazards associated with climate change, climate variability, sea level rise, and fluctuation of Great Lakes water levels. The Secretary may also establish, as warranted, longer term regional assessment programs. The Secretary may also consult with the governments of Canada and Mexico as appropriate in developing such regional assessments. In preparing the regional assessments, the Secretary shall collect and compile current information on climate change, sea level rise, natural hazards, and coastal erosion and mapping, and specifically address impacts on Arctic regions and the Central, Western, and South Pacific regions. The regional assessments shall include an evaluation of—*

*(1) social impacts associated with threats to and potential losses of housing, communities, and infrastructure;*

*(2) physical impacts such as coastal erosion, flooding and loss of estuarine habitat, saltwater intrusion of aquifers and saltwater encroachment, and species migration; and*

*(3) economic impact on local, State, and regional economies, including the impact on abundance or distribution of economically important living marine resources.*

*(b) COASTAL ADAPTATION PLAN.—The Secretary shall, within 3 years after the date of enactment of this Act, submit to the Congress a national coastal adaptation plan, composed of individual regional adaptation plans that recommend targets and strategies to address coastal impacts associated with climate change, sea level rise, or climate variability. The plan shall be developed with the participation of other Federal, State, and local government agencies that will be critical in the implementation of the plan at the State and local levels. The regional plans that will make up the national coastal adaptation plan shall be based on the information contained in the regional assessments and shall identify special needs associated with Arctic areas and the Central, Western, and South Pacific regions. The Plan shall recommend both short- and long-term adaptation strategies and shall include recommendations regarding—*

*(1) Federal flood insurance program modifications;*

*(2) areas that have been identified as high risk through mapping and assessment;*

*(3) mitigation incentives such as rolling easements, strategic retreat, State or Federal acquisition in fee simple or other interest in land, construction standards, and zoning;*

*(4) land and property owner education;*

*(5) economic planning for small communities dependent upon affected coastal resources, including fisheries; and*

*(6) funding requirements and mechanisms.*

*(c) TECHNICAL PLANNING ASSISTANCE.—The Secretary, through the National Ocean Service, shall establish a coordinated program to provide technical planning assistance and products to coastal States and local governments as they develop and implement adaptation or mitigation strategies and plans. Products, information, tools and technical expertise generated from the development of the regional assessments and the regional adaptation plans will be made available to coastal States for the purposes of developing their own State and local plans.*

*(d) COASTAL ADAPTATION GRANTS.—The Secretary shall provide grants of financial assistance to coastal States with federally approved coastal zone management programs to develop and begin implementing coastal adaptation programs if the State provides a Federal-to-State match of 4 to 1 in the first fiscal year, 2.3 to 1 in the second fiscal year, 2 to 1 in the third fiscal year, and 1 to 1 thereafter. Distribution of these funds to coastal States shall be based upon the formula established under section 306(c) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455(c)), adjusted in consultation with the States as necessary to provide assistance to particularly vulnerable coastlines.*

*(e) COASTAL RESPONSE PILOT PROGRAM.—*

*(1) IN GENERAL.—The Secretary shall establish a 4-year pilot program to provide financial assistance to coastal communities most adversely affected by the impact of climate change or climate variability that are located in States with federally approved coastal zone management programs.*

*(2) ELIGIBLE PROJECTS.—A project is eligible for financial assistance under the pilot program if it—*

*(A) will restore or strengthen coastal resources, facilities, or infrastructure that have been damaged by such an impact, as determined by the Secretary;*

*(B) meets the requirements of the Coastal Zone Management Act (16 U.S.C. 1451 et seq.) and is consistent with the coastal zone management plan of the State in which it is located; and*

*(C) will not cost more than $100,000.*

*(3) FUNDING SHARE.—The Federal funding share of any project under this subsection may not exceed 75 percent of the total cost of the project. In the administration of this paragraph—*

*(A) the Secretary may take into account in-kind contributions and other noncash support of any project to determine the Federal funding share for that project; and*

*(B) the Secretary may waive the requirements of this paragraph for a project in a community if—*

*(i) the Secretary determines that the project is important; and*

*(ii) the economy and available resources of the community in which the project is to be conducted are insufficient to meet the non-Federal share of the project's costs.*

*(f) DEFINITIONS.—Any term used in this section that is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453) has the meaning given it by that section.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 annually for regional assessments under subsection (a), and $3,000,000 annually for coastal adaptation grants under subsection (d).*

***SEC. 1373. ARCTIC RESEARCH CENTER.***

*(a) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretaries of Energy and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, shall establish a joint research facility, to be known as the Barrow Arctic Research Center, to support climate change and other scientific research activities in the Arctic.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretaries of Commerce, Energy, and the Interior, the Director of the National Science Foundation, and the Administrator of the Environmental Protection Agency, $35,000,000 for the planning, design, construction, and support of the Barrow Arctic Research Center.*

***PART II—FORECASTING AND PLANNING PILOT PROGRAMS***

***SEC. 1381. REMOTE SENSING PILOT PROJECTS.***

*(a) IN GENERAL.—The Administrator of the National Aeronautics and Space Administration may establish, through the National Oceanic and Atmospheric Administration's Coastal Services Center, a program of grants for competitively awarded pilot projects to explore the integrated use of sources of remote sensing and other geospatial information to address State, local, regional, and tribal agency needs to forecast a plan for adaptation to coastal zone and land use changes that may result as a consequence of global climate change or climate variability.*

*(b) PREFERRED PROJECTS.—In awarding grants under this section, the Center shall give preference to projects that—*

*(1) focus on areas that are most sensitive to the consequences of global climate change or climate variability;*

*(2) make use of existing public or commercial data sets;*

*(3) integrate multiple sources of geospatial information, such as geographic information system data, satellite-provided positioning data, and remotely sensed data, in innovative ways;*

*(4) offer diverse, innovative approaches that may serve as models for establishing a future coordinated framework for planning strategies for adaptation to coastal zone and land use changes related to global climate change or climate variability;*

*(5) include funds or in-kind contributions from non-Federal sources;*

*(6) involve the participation of commercial entities that process raw or lightly processed data, often merging that data with other geospatial information, to create data products that have significant value added to the original data; and*

*(7) taken together demonstrate as diverse a set of public sector applications as possible.*

*(c) OPPORTUNITIES.—In carrying out this section, the Center shall seek opportunities to assist—*

*(1) in the development of commercial applications potentially available from the remote sensing industry; and*

*(2) State, local, regional, and tribal agencies in applying remote sensing and other geospatial information technologies for management and adaptation to coastal and land use consequences of global climate change or climate variability.*

*(d) DURATION.—Assistance for a pilot project under subsection (a) shall be provided for a period of not more than 3 years.*

*(e) RESPONSIBILITIES OF GRANTEES.—Within 180 days after completion of a grant project, each recipient of a grant under subsection (a) shall transmit a report to the Center on the results of the pilot project and conduct at least one workshop for potential users to disseminate the lessons learned from the pilot project as widely as feasible.*

*(f) REGULATIONS.—The Center shall issue regulations establishing application, selection, and implementation procedures for pilot projects, and guidelines for reports and workshops required by this section.*

***SEC. 1382. DATABASE ESTABLISHMENT.***

*The Center shall establish and maintain an electronic, Internet-accessible database of the results of each pilot project completed under section 1381.*

***SEC. 1383. AIR QUALITY RESEARCH, FORECASTS AND WARNINGS.***

*(a) REGIONAL STUDIES.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), conduct regional studies of the air quality within specific regions of the United States. Such studies should assess the effects of in situ emissions of air pollutants and their precursors, transport of such emissions and precursors from outside the region, and production of air pollutants within the region via chemical reactions.*

*(b) FORECASTS AND WARNINGS.—The Secretary of Commerce, through the Administrator of the National Oceanographic and Atmospheric Administration, shall, in order of priority as listed in section (c), establish a program to provide operational air quality forecasts and warnings for specific regions of the United States.*

*(c) DEFINITION.—For the purposes of this section, the term ''specific regions of the United States'' means the following geographical areas:*

*(1) the Northeast, composed of Main, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Delaware, the District of Columbia, and West Virginia;*

*(2) the Southeast, composed of Virginia, North Carolina, South Carolina, Georgia, Alabama, and Florida;*

*(3) the Midwest, composed of Minnesota, Wisconsin, Iowa, Missouri, Illinois, Kentucky, Indiana, Ohio, and Michigan;*

*(4) the South, composed of Tennessee, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas;*

*(5) the High Plains, composed of North Dakota, South Dakota, Nebraska, and Kansas;*

*(6) the Northwest, composed of Washington, Oregon, Idaho, Montana, and Wyoming;*

*(7) the Southwest, composed of California, Nevada, Utah, Colorado, Arizona, and New Mexico;*

*(8) Alaska; and*

*(9) Hawaii.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $3,000,000 for each of fiscal years 2003 through 2006 for studies pursuant to subsection (b) of this section, and $5,000,000 for fiscal year 2003 and such sums as may be necessary for subsequent fiscal years for the forecast and warning program pursuant to subsection (c) of this section.*

***SEC. 1384. DEFINITIONS.***

*In this subtitle:*

*(1) CENTER.—The term ''Center'' means the Coastal Services Center of the National Oceanic and Atmospheric Administration.*

*(2) GEOSPATIAL INFORMATION.—The term ''geospatial information'' means knowledge of the nature and distribution of physical and cultural features on the landscape based on analysis of data from airborne or spaceborne platforms or other types and sources of data.*

*(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).*

***SEC. 1385. AUTHORIZATION OF APPROPRIATIONS.***

*There are authorized to be appropriated to the Administrator to carry out the provisions of this subtitle—*

*(1) $17,500,000 for fiscal year 2003;*

*(2) $20,000,000 for fiscal year 2004;*

*(3) $22,500,000 for fiscal year 2005; and*

*(4) $25,000,000 for fiscal year 2006.*

## *TITLE XIV—MANAGEMENT OF DOE SCIENCE AND TECHNOLOGY PROGRAMS*

***SEC. 1401. DEFINITIONS.***

*In this title:*

*(1) APPLICABILITY OF DEFINITIONS.—The definitions in section 1203 shall apply.*

*(2) SINGLE-PURPOSE RESEARCH FACILITY.—The term ''single-purpose research facility'' means any of the following primarily single purpose entities owned by the Department of Energy—*

*(A) Ames Laboratory;*

*(B) East Tennessee Technology Park;*

*(C) Environmental Measurement Laboratory;*

*(D) Fernald Environmental Management Project;*

*(E) Fermi National Accelerator Laboratory;*

*(F) Kansas City Plant;*

*(G) Nevada Test Site;*

*(H) New Brunswick Laboratory;*

*(I) Pantex Weapons Facility;*

*(J) Princeton Plasma Physics Laboratory;*

*(K) Savannah River Technology Center;*

*(L) Stanford Linear Accelerator Center;*

*(M) Thomas Jefferson National Accelerator Facility;*

*(N) Y–12 facility at Oak Ridge National Laboratory;*

*(O) Waste Isolation Pilot Plant; or*

*(P) other similar organization of the Department designated by the Secretary that engages in technology transfer, partnering, or licensing activities.*

***SEC. 1402. AVAILABILITY OF FUNDS.***

*Funds authorized to be appropriated to the Department of Energy under title XII, title XIII, and title XV shall remain available until expended.*

***SEC. 1403. COST SHARING.***

*(a) RESEARCH AND DEVELOPMENT.—For research and development projects funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.*

*(b) DEMONSTRATION AND DEPLOYMENT.—For demonstration and technology deployment activities funded from appropriations authorized under subtitles A through D of title XII, the Secretary shall require a commitment from non-Federal sources of at least 50 percent of the costs of the project directly and specifically related to any demonstration or technology deployment activity. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet one or more goals of this title.*

*(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under subsection (a) or (b), the Secretary shall include cash, personnel, services, equipment, and other resources.*

***SEC. 1404. MERIT REVIEW OF PROPOSALS.***

*Awards of funds authorized under title XII, subtitle A of title XIII, and title XV shall be made only after an independent review of the scientific and technical merit of the proposals for such awards has been made by the Department of Energy.*

***SEC. 1405. EXTERNAL TECHNICAL REVIEW OF DEPARTMENTAL PROGRAMS.***

*(a) NATIONAL ENERGY RESEARCH AND DEVELOPMENT ADVISORY BOARDS.—(1) The Secretary shall establish an advisory board to oversee Department research and development programs in each of the following areas—*

*(A) energy efficiency;*

*(B) renewable energy;*

*(C) fossil energy;*

*(D) nuclear energy; and*

*(E) climate change technology, with emphasis on integration, collaboration, and other special features of the cross-cutting technologies supported by the Office of Climate Change Technology.*

*(2) The Secretary may designate an existing advisory board within the Department to fulfill the responsibilities of an advisory board under this subsection, or may enter into appropriate arrangements with the National Academy of Sciences to establish such an advisory board.*

*(b) UTILIZATION OF EXISTING COMMITTEES.—The Secretary of Energy shall continue to use the scientific program advisory committees chartered under the Federal Advisory Committee Act by the Office of Science to oversee research and development programs under that Office.*

*(c) MEMBERSHIP.—Each advisory board under this section shall consist of experts drawn from industry, academia, Federal laboratories, research institutions, or State, local, or tribal governments, as appropriate.*

*(d) MEETINGS AND PURPOSES.—Each advisory board under this section shall meet at least semi-annually to review and advise on the progress made by the respective research, development, demonstration, and technology deployment program. The advisory board shall also review the adequacy and relevance of the goals established for each program by Congress and the President, and may otherwise advise on promising future directions in research and development that should be considered by each program.*

***SEC. 1406. IMPROVED COORDINATION AND MANAGEMENT OF CIVILIAN SCIENCE AND TECHNOLOGY PROGRAMS.***

*(a) EFFECTIVE TOP-LEVEL COORDINATION OF RESEARCH AND DEVELOPMENT PROGRAMS.—Section 202(b) of the Department of Energy Organization Act (42 U.S.C. 7132(b)) is amended to read as follows:*

*''(b)(1) There shall be in the Department an Under Secretary for Energy and Science, who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall be compensated at the rate provided for at level III of the Executive Schedule under section 5314 of title 5, United States Code.*

*''(2) The Under Secretary for Energy and Science shall be appointed from among persons who—*

*''(A) have extensive background in scientific or engineering fields; and*

*''(B) are well qualified to manage the civilian research and development programs of the Department of Energy.*

*''(3) The Under Secretary for Energy and Science shall—*

*''(A) serve as the Science and Technology Advisor to the Secretary;*

*''(B) monitor the Department's research and development programs in order to advise the Secretary with respect to any undesirable duplication or gaps in such programs;*

*''(C) advise the Secretary with respect to the well-being and management of the multipurpose laboratories under the jurisdiction of the Department;*

*''(D) advise the Secretary with respect to education and training activities required for effective short- and long-term basic and applied research activities of the Department;*

*''(E) advise the Secretary with respect to grants and other forms of financial assistance required for effective short- and long-term basic and applied research activities of the Department; and*

*''(F) exercise authority and responsibility over Assistant Secretaries carrying out energy research and development and energy technology functions under sections 203 and 209, as well as other elements of the Department assigned by the Secretary.''.*

*(b) RECONFIGURATION OF POSITION OF DIRECTOR OF THE OFFICE OF SCIENCE.—Section 209 of the Department of Energy Organization Act (41 U.S.C. 7139) is amended to read as follows:*

*''(a) There shall be within the Department an Office of Science, to be headed by an Assistant Secretary of Science, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.*

*''(b) The Assistant Secretary of Science shall be in addition to the Assistant Secretaries provided for under section 203 of this Act.*

*''(c) It shall be the duty and responsibility of the Assistant Secretary of Science to carry out the fundamental science and engineering research functions of the Department, including the responsibility for policy and management of such research, as well as other functions vested in the Secretary which he may assign to the Assistant Secretary.''.*

*(c) ADDITIONAL ASSISTANT SECRETARY POSITION TO ENABLE IMPROVED MANAGEMENT OF NUCLEAR ENERGY ISSUES.—*

*(1) Section 203(a) of the Department of Energy Organization Act (42 U.S.C. 7133(a)) is amended by striking ''There shall be in the Department six Assistant Secretaries'' and inserting ''Except as provided in section 209, there shall be in the Department seven Assistant Secretaries''.*

*(2) It is the sense of the Senate that the leadership for departmental missions in nuclear energy should be at the Assistant Secretary level.*

*(d) TECHNICAL AND CONFORMING AMENDMENTS.—*

*(1) Section 202 of the Department of Energy Organization Act (42 U.S.C. 7132) is further amended by adding the following at the end:*

*''(d) There shall be in the Department an Under Secretary, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions and duties as the Secretary shall prescribe, consistent with this section. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code.*

*''(e) There shall be in the Department a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be compensated at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.''.*

*(2) Section 5314 of title 5, United States Code, is amended by striking ''Under Secretaries of Energy (2)'' and inserting ''Under Secretaries of Energy (3)''.*

*(3) Section 5315 of title 5, United States Code, is amended by—*

*(A) striking ''Director, Office of Science, Department of Energy.''; and*

*(B) striking ''Assistant Secretaries of Energy (6)'' and inserting ''Assistant Secretaries of Energy (8)''.*

*(4) The table of contents for the Department of Energy Organization Act (42 U.S.C. 7101 note) is amended—*

*(A) by striking ''Section 209'' and inserting ''Sec. 209'';*

*(B) by striking ''213.'' and inserting ''Sec. 213.'';*

*(C) by striking ''214.'' and inserting ''Sec. 214.'';*

*(D) by striking ''215.'' and inserting ''Sec. 215.''; and*

*(E) by striking ''216.'' and inserting ''Sec. 216.''.*

***SEC. 1407. IMPROVED COORDINATION OF TECHNOLOGY TRANSFER ACTIVITIES.***

*(a) TECHNOLOGY TRANSFER COORDINATOR.—The Secretary shall appoint a Technology Transfer Coordinator to perform oversight of and policy development for technology transfer activities at the Department. The Technology Transfer Coordinator shall coordinate the activities of the Technology Partnerships Working Group, and shall oversee the expenditure of funds allocated to the Technology Partnership Working Group.*

*(b) TECHNOLOGY PARTNERSHIP WORKING GROUP.—The Secretary shall establish a Technology Partnership Working Group, which shall consist of representatives of the National Laboratories and single-purpose research facilities, to—*

*(1) coordinate technology transfer activities occurring at National Laboratories and single-purpose research facilities;*

*(2) exchange information about technology transfer practices; and*

*(3) develop and disseminate to the public and prospective technology partners information about opportunities and procedures for technology transfer with the Department.*

***SEC. 1408. TECHNOLOGY INFRASTRUCTURE PROGRAM.***

*(a) ESTABLISHMENT.—The Secretary shall establish a Technology Infrastructure Program in accordance with this section.*

*(b) PURPOSE.—The purpose of the Technology Infrastructure Program shall be to improve the ability of National Laboratories or single-purpose research facilities to support departmental missions by—*

*(1) stimulating the development of technology clusters that can support departmental missions at the National Laboratories or single-purpose research facilities;*

*(2) improving the ability of National Laboratories or single-purpose research facilities to leverage and benefit from commercial research, technology, products, processes, and services; and*

*(3) encouraging the exchange of scientific and technological expertise between National Laboratories or single-purpose research facilities and—*

*(A) institutions of higher education,*

*(B) technology-related business concerns,*

*(C) nonprofit institutions, and*

*(D) agencies of State, tribal, or local governments,*

*that can support departmental missions at the National Laboratories and single-purpose research facilities.*

*(c) PROJECTS.—The Secretary shall authorize the Director of each National Laboratory or facility to implement the Technology Infrastructure Program at such National Laboratory or single-purpose research facility through projects that meet the requirements of subsections (d) and (e).*

*(d) PROGRAM REQUIREMENTS.—Each project funded under this section shall meet the following requirements:*

*(1) MINIMUM PARTICIPANTS.—Each project shall at a minimum include—*

*(A) a National Laboratory or single-purpose research facility; and*

*(B) one of the following entities—*

*(i) a business,*

*(ii) an institution of higher education,*

*(iii) a nonprofit institution, or*

*(iv) an agency of a State, local, or tribal government.*

*(2) COST SHARING.—*

*(A) MINIMUM AMOUNT.—Not less than 50 percent of the costs of each project funded under this section shall be provided from non-Federal sources.*

*(B) QUALIFIED FUNDING AND RESOURCES.—(i) The calculation of costs paid by the non-Federal sources to a project shall include cash, personnel, services, equipment, and other resources expended on the project.*

*(ii) Independent research and development expenses of Government contractors that qualify for reimbursement under section 31–205–18(e) of the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) may be credited towards costs paid by non-Federal sources to a project, if the expenses meet the other requirements of this section.*

*(iii) No funds or other resources expended either before the start of a project under this section or outside the project's scope of work shall be credited toward the costs paid by the non-Federal sources to the project.*

*(3) COMPETITIVE SELECTION.—All projects in which a party other than the Department, a National Laboratory, or a single-purpose research facility receives funding under this section shall, to the extent practicable, be competitively selected by the National Laboratory or facility using procedures determined to be appropriate by the Secretary.*

*(4) ACCOUNTING STANDARDS.—Any participant that receives funds under this section, other than a National Laboratory or single-purpose research facility, may use generally accepted accounting principles for maintaining accounts, books, and records relating to the project.*

*(5) LIMITATIONS.—No Federal funds shall be made available under this section for—*

*(A) construction; or*

*(B) any project for more than 5 years.*

*(e) SELECTION CRITERIA.—*

*(1) THRESHOLD FUNDING CRITERIA.—The Secretary shall allocate funds under this section only if the Director of the National Laboratory or single-purpose research facility managing the project determines that the project is likely to improve the ability of the National Laboratory or single-purpose research facility to achieve technical success in meeting departmental missions.*

*(2) ADDITIONAL CRITERIA.—The Secretary shall require the Director of the National Laboratory or single-purpose research facility managing a project under this section to consider the following criteria in selecting a project to receive Federal funds—*

*(A) the potential of the project to succeed, based on its technical merit, team members, management approach, resources, and project plan;*

*(B) the potential of the project to promote the development of a commercially sustainable technology cluster, which will derive most of the demand for its products or services from the private sector, and which will support departmental missions at the participating National Laboratory or single-purpose research facility;*

*(C) the potential of the project to promote the use of commercial research, technology, products, processes, and services by the participating National Laboratory or single-purpose research facility to achieve its departmental mission or the commercial development of technological innovations made at the participating National Laboratory or single-purpose research facility;*

*(D) the commitment shown by non-Federal organizations to the project, based primarily on the nature and amount of the financial and other resources they will risk on the project;*

*(E) the extent to which the project involves a wide variety and number of institutions of higher education, nonprofit institutions, and technology-related business concerns that can support the missions of the participating National Laboratory or single-purpose research facility and that will make substantive contributions to achieving the goals of the project;*

*(F) the extent of participation in the project by agencies of State, tribal, or local governments that will make substantive contributions to achieving the goals of the project;*

*(G) the extent to which the project focuses on promoting the development of technology-related business concerns that are small business concerns or involves such small business concerns substantively in the project; and*

*(H) such other criteria as the Secretary determines to be appropriate.*

*(f) REPORT TO CONGRESS.—Not later than January 1, 2004, the Secretary shall report to Congress on whether the Technology Infrastructure Program should be continued and, if so, how the program should be managed.*

*(g) DEFINITIONS.—In this section:*

*(1) TECHNOLOGY CLUSTER.—The term ''technology cluster'' means a concentration of—*

*(A) technology-related business concerns;*

*(B) institutions of higher education; or*

*(C) other nonprofit institutions;*

*that reinforce each other's performance in the areas of technology development through formal or informal relationships.*

*(2) TECHNOLOGY-RELATED BUSINESS CONCERN.—The term ''technology-related business concern'' means a for-profit corporation, company, association, firm, partnership, or small business concern that—*

*(A) conducts scientific or engineering research,*

*(B) develops new technologies,*

*(C) manufactures products based on new technologies, or*

*(D) performs technological services.*

*(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for activities under this section $10,000,000 for each of fiscal years 2003 and 2004.*

***SEC. 1409. SMALL BUSINESS ADVOCACY AND ASSISTANCE.***

*(a) SMALL BUSINESS ADVOCATE.—The Secretary shall require the Director of each National Laboratory, and may require the Director of a single-purpose research facility, to appoint a small business advocate to—*

*(1) increase the participation of small business concerns, including socially and economically disadvantaged small business concerns, in procurement, collaborative research, technology licensing, and technology transfer activities conducted by the National Laboratory or single-purpose research facility;*

*(2) report to the Director of the National Laboratory or single-purpose research facility on the actual participation of small business concerns in procurement and collaborative research along with recommendations, if appropriate, on how to improve participation;*

*(3) make available to small business concerns training, mentoring, and clear, up-to-date information on how to participate in the procurement and collaborative research, including how to submit effective proposals;*

*(4) increase the awareness inside the National Laboratory or single-purpose research facility of the capabilities and opportunities presented by small business concerns; and*

*(5) establish guidelines for the program under subsection (b) and report on the effectiveness of such program to the Director of the National Laboratory or single-purpose research facility.*

*(b) ESTABLISHMENT OF SMALL BUSINESS ASSISTANCE PROGRAM.—The Secretary shall require the Director of each National Laboratory, and may require the director of a single-purpose research facility, to establish a program to provide small business concerns—*

*(1) assistance directed at making them more effective and efficient subcontractors or suppliers to the National Laboratory or single-purpose research facility; or*

*(2) general technical assistance, the cost of which shall not exceed $10,000 per instance of assistance, to improve the small business concern's products or services.*

*(c) USE OF FUNDS.—None of the funds expended under subsection (b) may be used for direct grants to the small business concerns.*

*(d) DEFINITIONS.—In this section:*

*(1) SMALL BUSINESS CONCERN.—The term ''small business concern'' has the meaning given such term in section 3 of the Small Business Act (15 U.S.C. 632).*

*(2) SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.—The term ''socially and economically disadvantaged small business concerns'' has the meaning given such term in section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)).*

***SEC. 1410. OTHER TRANSACTIONS.***

*(a) IN GENERAL.—Section 646 of the Department of Energy Organization Act (42 U.S.C. 7256) is amended by adding at the end the following:*

*''(g) OTHER TRANSACTIONS AUTHORITY.—(1) In addition to other authorities granted to the Secretary to enter into procurement contracts, leases, cooperative agreements, grants, and other similar arrangements, the Secretary may enter into other transactions with public agencies, private organizations, or persons on such terms as the Secretary may deem appropriate in furtherance of basic, applied, and advanced research functions now or hereafter vested in the Secretary. Such other transactions shall not be subject to the provisions of section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5908).*

*''(2)(A) The Secretary of Energy shall ensure that—*

*''(i) to the maximum extent practicable, no transaction entered into under paragraph (1) provides for research that duplicates research being conducted under existing programs carried out by the Department of Energy; and*

*''(ii) to the extent that the Secretary determines practicable, the funds provided by the Government under a transaction authorized by paragraph (1) do not exceed the total amount provided by other parties to the transaction.*

*''(B) A transaction authorized by paragraph (1) may be used for a research project when the use of a standard contract, grant, or cooperative agreement for such project is not feasible or appropriate.*

*''(3)(A) The Secretary shall not disclose any trade secret or commercial or financial information submitted by a non-Federal entity under paragraph (1) that is privileged and confidential.*

*''(B) The Secretary shall not disclose, for 5 years after the date the information is received, any other information submitted by a non-Federal entity under paragraph (1), including any proposal, proposal abstract, document supporting a proposal, business plan, or technical information that is privileged and confidential.*

*''(C) The Secretary may protect from disclosure, for up to 5 years, any information developed pursuant to a transaction under paragraph (1) that would be protected from disclosure under section 552(b)(4) of title 5, United States Code, if obtained from a person other than a Federal agency.''.*

*(b) IMPLEMENTATION.—Not later than 6 months after the date of enactment of this section, the Department shall establish guidelines for the use of other transactions.*

***SEC. 1411. MOBILITY OF SCIENTIFIC AND TECHNICAL PERSONNEL.***

*Not later than 2 years after the enactment of this section, the Secretary, acting through the Technology Transfer Coordinator under section 1407, shall determine whether each contractor operating a National Laboratory or single-purpose research facility has policies and procedures that do not create disincentives to the transfer of scientific and technical personnel among the contractor-operated National Laboratories or contractor-operated single-purpose research facilities.*

***SEC. 1412. NATIONAL ACADEMY OF SCIENCES REPORT.***

*Within 90 days after the date of enactment of this Act, the Secretary shall contract with the National Academy of Sciences to—*

*(1) conduct a study on the obstacles to accelerating the innovation cycle for energy technology, and*

*(2) report to the Congress recommendations for shortening the cycle of research, development, and deployment.*

***SEC. 1413. REPORT ON TECHNOLOGY READINESS AND BARRIERS TO TECHNOLOGY TRANSFER.***

*(a) IN GENERAL.—The Secretary, acting through the Technology Partnership Working Group and in consultation with representatives of affected industries, universities, and small business concerns, shall—*

*(1) assess the readiness for technology transfer of energy technologies developed through projects funded from appropriations authorized under subtitles A through D of title XIV, and*

*(2) identify barriers to technology transfer and cooperative research and development agreements between the Department or a National Laboratory and a non-Federal person; and*

*(3) make recommendations for administrative or legislative actions needed to reduce or eliminate such barriers.*

*(b) REPORT.—The Secretary shall provide a report to Congress and the President on activities carried out under this section not later than 1 year after the date of enactment of this section, and shall update such report on a biennial basis, taking into account progress toward eliminating barriers to technology transfer identified in previous reports under this section.*

***SEC. 1414. UNITED STATES-MEXICO ENERGY TECHNOLOGY COOPERATION.***

*(a) FINDING.—Congress finds that the economic and energy security of the United States and Mexico is furthered through collaboration between the United States and Mexico on research related to energy technologies.*

*(b) PROGRAM.—*

*(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall establish a collaborative research, development, and deployment program to promote energy efficient, environmentally sound economic development along the United States-Mexico border to—*

*(A) mitigate hazardous waste;*

*(B) promote energy efficient materials processing technologies that minimize environmental damage; and*

*(C) protect the public health.*

*(2) CONSULTATION.—The Secretary, acting through the Assistant Secretary for Environmental Management, shall consult with the Office of Energy Efficiency and Renewable Energy in carrying out paragraph (1)(B).*

*(c) PROGRAM MANAGEMENT.—The program under subsection (b) shall be managed by the Department of Energy Carlsbad Environmental Management Field Office.*

*(d) COST SHARING.—The cost of any project or activity carried out using funds provided under this section shall be shared as provided in section 1403.*

*(e) TECHNOLOGY TRANSFER.—In carrying out projects and activities under this section to mitigate hazardous waste, the Secretary shall emphasize the transfer of technology developed under the Environmental Management Science Program of the Department of Energy.*

*(f) INTELLECTUAL PROPERTY.—In carrying out this section, the Secretary shall comply with the requirements of any agreement entered between the United States and Mexico regarding intellectual property protection.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 2003 and $6,000,000 for each of fiscal years 2004 through 2006, to remain available until expended.*

## *TITLE XV—PERSONNEL AND TRAINING*

***SEC. 1501. WORKFORCE TRENDS AND TRAINEESHIP GRANTS.***

*(a) WORKFORCE TRENDS.—*

*(1) MONITORING.—The Secretary of Energy (in this title referred to as the ''Secretary''), acting through the Administrator of the Energy Information Administration, in consultation with the Secretary of Labor, shall monitor trends in the workforce of skilled technical personnel supporting energy technology industries, including renewable energy industries, companies developing and commercializing devices to increase energy-efficiency, the oil and gas industry, the electric power generation industry (including the nuclear power industry), the coal industry, and other industrial sectors as the Secretary may deem appropriate.*

*(2) ANNUAL REPORTS.—The Administrator of the Energy Information Administration shall include statistics on energy industry workforce trends in the annual reports of the Energy Information Administration.*

*(3) SPECIAL REPORTS.—The Secretary shall report to the appropriate committees of Congress whenever the Secretary determines that significant shortfalls of technical personnel in one or more energy industry segments are forecast or have occurred.*

*(b) TRAINEESHIP GRANTS FOR TECHNICALLY SKILLED PERSONNEL.—*

*(1) GRANT PROGRAMS.—The Secretary shall establish grant programs in the appropriate offices of the Department to enhance training of technically skilled personnel for which a shortfall is determined under subsection (a).*

*(2) ELIGIBLE INSTITUTIONS.—As determined by the Secretary to be appropriate to the particular workforce shortfall, the Secretary shall make grants under paragraph (1) to—*

*(A) an institution of higher education;*

*(B) a postsecondary educational institution providing vocational and technical education (within the meaning given those terms in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302));*

*(C) appropriate agencies of State, local, or tribal governments; or*

*(D) joint labor and management training organizations with State or federally recognized apprenticeship programs and other employee-based training organizations as the Secretary considers appropriate.*

*(c) DEFINITION.—For purposes of this section, the term ''skilled technical personnel'' means journey and apprentice level workers who are enrolled in or have completed a State or federally recognized apprenticeship program and other skilled workers in energy technology industries.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the Secretary for activities under this section such sums as may be necessary for each fiscal year.*

***SEC. 1502. POSTDOCTORAL AND SENIOR RESEARCH FELLOWSHIPS IN ENERGY RESEARCH.***

*(a) POSTDOCTORAL FELLOWSHIPS.—The Secretary shall establish a program of fellowships to encourage outstanding young scientists and engineers to pursue postdoctoral research appointments in energy research and development at institutions of higher education of their choice. In establishing a program under this subsection, the Secretary may enter into appropriate arrangements with the National Academy of Sciences to help administer the program.*

*(b) DISTINGUISHED SENIOR RESEARCH FELLOWSHIPS.—The Secretary shall establish a program of fellowships to allow outstanding senior researchers in energy research and development and their research groups to explore research and development topics of their choosing for a fixed period of time. Awards under this program shall be made on the basis of past scientific or technical accomplishment and promise for continued accomplishment during the period of support, which shall not be less than 3 years.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—From amounts authorized under section 1241(c), there are authorized to be appropriated to the*

*Secretary for activities under this section such sums as may be necessary for each fiscal year.*

**SEC. 1503. TRAINING GUIDELINES FOR ELECTRIC ENERGY INDUSTRY PERSONNEL.**

*(a) MODEL GUIDELINES.—The Secretary shall, in cooperation with electric generation, transmission, and distribution companies and recognized representatives of employees of those entities, develop model employee training guidelines to support electric supply system reliability and safety.*

*(b) CONTENT OF GUIDELINES.—The guidelines under this section shall include—*

*(1) requirements for worker training, competency, and certification, developed using criteria set forth by the Utility Industry Group recognized by the National Skill Standards Board; and*

*(2) consolidation of existing guidelines on the construction, operation, maintenance, and inspection of electric supply generation, transmission and distribution facilities such as those established by the National Electric Safety Code and other industry consensus standards.*

**SEC. 1504. NATIONAL CENTER ON ENERGY MANAGEMENT AND BUILDING TECHNOLOGIES.**

*The Secretary shall establish a National Center on Energy Management and Building Technologies, to carry out research, education, and training activities to facilitate the improvement of energy efficiency and indoor air quality in industrial, commercial and residential buildings. The National Center shall be established in cooperation with—*

*(1) recognized representatives of employees in the heating, ventilation, and air-conditioning industry;*

*(2) contractors that install and maintain heating, ventilation and air-conditioning systems and equipment;*

*(3) manufacturers of heating, ventilation and air-conditioning systems and equipment;*

*(4) representatives of the advanced building envelope industry, including design, windows, lighting, and insulation industries; and*

*(5) other entities as appropriate.*

**SEC. 1505. IMPROVED ACCESS TO ENERGY-RELATED SCIENTIFIC AND TECHNICAL CAREERS.**

*(a) DEPARTMENT OF ENERGY SCIENCE EDUCATION 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 WOMEN AND MINORITY STUDENTS.—In carrying out a program under subsection (a), the Secretary shall give priority to activities that are designed to encourage women and minority students to pursue scientific and technical careers.''.*

*(b) PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVICING INSTITUTIONS, AND TRIBAL COLLEGES.—The Department of Energy Science Education Enhancement Act (42 U.S.C. 7381 et seq.) is amended—*

*(1) by redesignating sections 3167 and 3168 as sections 3168 and 3169, respectively; and*

*(2) by inserting after section 3166 the following:*

**''SEC. 3167. PARTNERSHIPS WITH HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, HISPANIC-SERVING INSTITUTIONS, AND TRIBAL COLLEGES.**

*''(a) DEFINITIONS.—In this section:*

*''(1) HISPANIC-SERVING INSTITUTION.—The term 'Hispanic-serving institution' has the meaning given the term in section 502(a) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)).*

*''(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically Black college or university' has the meaning given the term 'part B institution' in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).*

*''(3) NATIONAL LABORATORY.—The term 'National Laboratory' has the meaning given the term in section 1203 of the Energy Science and Technology Enhancement Act of 2002.*

*''(4) SCIENCE FACILITY.—The term 'science facility' has the meaning given the term 'single-purpose research facility' in section 1401 of the Energy Science and Technology Enhancement Act of 2002.*

*''(5) TRIBAL COLLEGE.—The term 'tribal college' has the meaning given the term 'tribally controlled college or university' in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)).*

*''(b) EDUCATION PARTNERSHIP.—*

*''(1) IN GENERAL.—The Secretary shall direct the Director of each National Laboratory, and may direct the head of any science facility, to increase the participation of historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges in activities that increase the capacity of the historically Black colleges or universities, Hispanic-serving institutions, or tribal colleges to train personnel in science or engineering.*

*''(2) ACTIVITIES.—An activity under paragraph (1) may include—*

*''(A) collaborative research;*

*''(B) a transfer of equipment;*

*''(C) training of personnel at a National Laboratory or science facility; and*

*''(D) a mentoring activity by personnel at a National Laboratory or science facility.*

*''(c) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Committee on Science of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the activities carried out under this section.''.*

**SEC. 1506. NATIONAL POWER PLANT OPERATIONS TECHNOLOGY AND EDUCATION CENTER.**

*(a) ESTABLISHMENT.—The Secretary shall establish a National Power Plant Operations Technology and Education Center (the ''Center''), to address the need for training and educating certified operators for electric power generation plants.*

*(b) ROLE.—The Center shall provide both training and continuing education relating to electric power generation plant technologies and operations. The Center shall conduct training and education activities on site and through Internet-based information technologies that allow for learning at remote sites.*

*(c) CRITERIA FOR COMPETITIVE SELECTION.—The Secretary shall establish the Center at an institution of higher education with expertise in plant technology and operation and that can provide on-site as well as Internet-based training.*

**SEC. 1507. FEDERAL MINE INSPECTORS.**

*In light of projected retirements of Federal mine inspectors and the need for additional personnel, the Secretary of Labor shall hire, train, and deploy such additional skilled mine inspectors (particularly inspectors with practical experience as a practical mining engineer) as necessary to ensure the availability of skilled and experienced individuals and to maintain the number of Federal mine inspectors at or above the levels authorized by law or established by regulation.*

## DIVISION F—TECHNOLOGY ASSESSMENT AND STUDIES

## TITLE XVI—TECHNOLOGY ASSESSMENT

**SEC. 1601. NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE.**

*The National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 et seq.) is amended by adding at the end the following:*

### ''TITLE VII—NATIONAL SCIENCE AND TECHNOLOGY ASSESSMENT SERVICE

**''SEC. 701. ESTABLISHMENT.**

*''There is hereby created a Science and Technology Assessment Service (hereinafter referred to as the 'Service'), which shall be within and responsible to the legislative branch of the Government.*

**''SEC. 702. COMPOSITION.**

*''The Service shall consist of a Science and Technology Board (hereinafter referred to as the 'Board') which shall formulate and promulgate the policies of the Service, and a Director who shall carry out such policies and administer the operations of the Service.*

**''SEC. 703. FUNCTIONS AND DUTIES.**

*''The Service shall coordinate and develop information for Congress relating to the uses and application of technology to address current national science and technology policy issues. In developing such technical assessments for Congress, the Service shall utilize, to the extent practicable, experts selected in coordination with the National Research Council.*

**''SEC. 704. INITIATION OF ACTIVITIES.**

*''Science and technology assessment activities undertaken by the Service may be initiated upon the request of—*

*''(1) the Chairman of any standing, special, or select committee of either House of the Congress, or of any joint committee of the Congress, acting for himself or at the request of the ranking minority member or a majority of the committee members;*

*''(2) the Board; or*

*''(3) the Director.*

**''SEC. 705. ADMINISTRATION AND SUPPORT.**

*''The Director of the Science and Technology Assessment Service shall be appointed by the Board and shall serve for a term of 6 years unless sooner removed by the Board. The Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Director shall contract for administrative support from the Library of Congress.*

**''SEC. 706. AUTHORITY.**

*''The Service shall have the authority, within the limits of available appropriations, to do all things necessary to carry out the provisions of this section, including, but without being limited to, the authority to—*

*''(1) make full use of competent personnel and organizations outside the Office, public or private, and form special ad hoc task forces or make other arrangements when appropriate;*

*''(2) enter into contracts or other arrangements as may be necessary for the conduct of the work of the Office with any agency or instrumentality of the United States, with any State, territory, or possession or any political subdivision thereof, or with any person, firm, association, corporation, or educational institution, with or without reimbursement, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 51);*

*''(3) accept and utilize the services of voluntary and uncompensated personnel necessary for the conduct of the work of the Service and provide transportation and subsistence as authorized by section 5703 of title 5, United States Code, for persons serving without compensation; and*

*''(4) prescribe such rules and regulations as it deems necessary governing the operation and organization of the Service.*

**''SEC. 707. BOARD.**

*''The Board shall consist of 13 members as follows—*

*''(1) six Members of the Senate, appointed by the President pro tempore of the Senate, three from the majority party and three from the minority party;*

*''(2) six Members of the House of Representatives appointed by the Speaker of the House of Representatives, three from the majority party and three from the minority party; and*

*''(3) the Director, who shall not be a voting member.*

**''SEC. 708. REPORT TO CONGRESS.**

*''The Service shall submit to the Congress an annual report which shall include, but not be*

*limited to, an evaluation of technology assessment techniques and identification, insofar as may be feasible, of technological areas and programs requiring future analysis. The annual report shall be submitted not later than March 15 of each year.*

***"SEC. 709. AUTHORIZATION OF APPROPRIATIONS.***

*''There are authorized to be appropriated to the Service such sums as are necessary to fulfill the requirements of this title.''.*

***TITLE XVII—STUDIES***

***SEC. 1701. REGULATORY REVIEWS.***

*(a) REGULATORY REVIEWS.—Not later than 1 year after the date of enactment of this section and every 5 years thereafter, each Federal agency shall review relevant regulations and standards to identify—*

*(1) existing regulations and standards that act as barriers to—*

*(A) market entry for emerging energy technologies (including fuel cells, combined heat and power, distributed power generation, and small-scale renewable energy), and*

*(B) market development and expansion for existing energy technologies (including combined heat and power, small-scale renewable energy, geothermal heat pump technology, and energy recovery in industrial processes), and*

*(2) actions the agency is taking or could take to—*

*(A) remove barriers to market entry for emerging energy technologies and to market expansion for existing technologies,*

*(B) increase energy efficiency and conservation, or*

*(C) encourage the use of new and existing processes to meet energy and environmental goals.*

*(b) REPORT TO CONGRESS.—Not later than 18 months after the date of enactment of this section, and every 5 years thereafter, the Director of the Office of Science and Technology Policy shall report to the Congress on the results of the agency reviews conducted under subsection (a).*

*(c) CONTENTS OF THE REPORT.—The report shall—*

*(1) identify all regulatory barriers to—*

*(A) the development and commercialization of emerging energy technologies and processes, and*

*(B) the further development and expansion of existing energy conservation technologies and processes,*

*(2) actions taken, or proposed to be taken, to remove such barriers, and*

*(3) recommendations for changes in laws or regulations that may be needed to—*

*(A) expedite the siting and development of energy production and distribution facilities,*

*(B) encourage the adoption of energy efficiency and process improvements,*

*(C) facilitate the expanded use of existing energy conservation technologies, and*

*(D) reduce the environmental impacts of energy facilities and processes through transparent and flexible compliance methods.*

***SEC. 1702. ASSESSMENT OF DEPENDENCE OF STATE OF HAWAII ON OIL.***

*(a) ASSESSMENT.—The Secretary of Energy shall assess the economic implications of the dependence of the State of Hawaii on oil as the principal source of energy for the State, including—*

*(1) the short- and long-term prospects for crude oil supply disruption and price volatility and potential impacts on the economy of Hawaii;*

*(2) the economic relationship between oil-fired generation of electricity from residual fuel and refined petroleum products consumed for ground, marine, and air transportation;*

*(3) the technical and economic feasibility of increasing the contribution of renewable energy resources for generation of electricity, on an island-by-island basis, including—*

*(A) siting and facility configuration;*

*(B) environmental, operational, and safety considerations;*

*(C) the availability of technology;*

*(D) effects on the utility system, including reliability;*

*(E) infrastructure and transport requirements;*

*(F) community support; and*

*(G) other factors affecting the economic impact of such an increase and any effect on the economic relationship described in paragraph (2);*

*(4) the technical and economic feasibility of using liquefied natural gas to displace residual fuel oil for electric generation, including neighbor island opportunities, and the effect of such displacement on the economic relationship described in paragraph (2), including—*

*(A) the availability of supply;*

*(B) siting and facility configuration for onshore and offshore liquefied natural gas receiving terminals;*

*(C) the factors described in subparagraphs (B) through (F) of paragraph (3); and*

*(D) other economic factors;*

*(5) the technical and economic feasibility of using renewable energy sources (including hydrogen) for ground, marine, and air transportation energy applications to displace the use of refined petroleum products, on an island-by-island basis, and the economic impact of such displacement on the relationship described in paragraph (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 one or more contracts with qualified public or private entities.*

*(c) REPORT.—Not later than 300 days after the date of enactment of this Act, the Secretary shall prepare, in consultation with agencies of the State of Hawaii and other stakeholders, as appropriate, and submit to Congress, a report detailing the findings, conclusions, and recommendations resulting from the assessment.*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.*

***SEC. 1703. STUDY OF SITING AN ELECTRIC TRANSMISSION SYSTEM ON AMTRAK RIGHT-OF-WAY.***

*(a) STUDY.—The Secretary of Energy shall contract with Amtrak to conduct a study of the feasibility of building and operating a new electric transmission system on the Amtrak right-of-way in the Northeast Corridor.*

*(b) SCOPE OF THE STUDY.—The study shall focus on siting the new system on the Amtrak right-of-way within the Northeast Corridor between Washington, D.C., and New Rochelle, New York, including the Amtrak right-of-way between Philadelphia, Pennsylvania and Harrisburg, Pennsylvania.*

*(c) CONTENTS OF THE STUDY.—The study shall consider—*

*(1) alternative geographic configuration of a new electronic transmission system on the Amtrak right-of-way;*

*(2) alternative technologies for the system;*

*(3) the estimated costs of building and operating each alternative;*

*(4) alternative means of financing the system;*

*(5) the environmental risks and benefits of building and operating each alternative as well as environmental risks and benefits of building and operating the system on the Northeast Corridor rather than at other locations;*

*(6) engineering and technological obstacles to building and operating each alternative; and*

*(7) the extent to which each alternative would enhance the reliability of the electric transmission grid and enhance competition in the sale of electric energy at wholesale within the Northeast Corridor.*

*(d) RECOMMENDATIONS.—The study shall recommend the optimal geographic configuration, the optimal technology, the optimal engineering design, and the optimal means of financing for the new system from among the alternatives considered.*

*(e) REPORT.—The Secretary of Energy shall submit the completed study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Energy and Commerce of the House of Representatives not later than 270 days after the date of enactment of this section.*

*(f) DEFINITIONS.—For purposes of this section—*

*(1) the term ''Amtrak'' means the National Railroad Passenger Corporation established under chapter 243 of title 49, United States Code; and*

*(2) the term ''Northeast Corridor'' shall have the meaning given such term under section 24102(7) of title 49, United States Code.*

***SEC. 1704. UPDATING OF INSULAR AREA RENEWABLE ENERGY AND ENERGY EFFICIENCY PLANS.***

*Section 604 of Public Law 96–597 (48 U.S.C. 1492) is amended—*

*(1) in subsection (a) at the end of paragraph (4) by striking ''resources.'' and inserting ''resources; and*

*''(5) the development of renewable energy and energy efficiency technologies since publication of the 1982 Territorial Energy Assessment prepared under subsection (c) reveals the need to reassess the state of energy production, consumption, efficiency, infrastructure, reliance on imported energy, and potential of the indigenous renewable energy resources and energy efficiency in regard to the insular areas.''; and*

*(2) by adding at the end of subsection (e) ''The Secretary of Energy, in consultation with the Secretary of the Interior and the chief executive officer of each insular area, shall update the plans required under subsection (c) and draft long-term energy plans for each insular area that will reduce, to the extent feasible, the reliance of the insular area on energy imports by the year 2010, and maximize, to the extent feasible, use of renewable energy resources and energy efficiency opportunities. Not later than December 31, 2002, the Secretary of Energy shall submit the updated plans to Congress.''.*

***SEC. 1705. CONSUMER ENERGY COMMISSION.***

*(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the ''Consumer Energy Commission''.*

*(b) MEMBERSHIP.—*

*(1) IN GENERAL.—The Commission shall be comprised of 11 members who shall be appointed within 30 days from the date of enactment of this section and who shall serve for the life of the Commission.*

*(2) APPOINTMENTS IN THE SENATE AND THE HOUSE.—The Majority Leader and the Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint 2 members—*

*(A) one of whom shall represent consumer groups focusing on energy issues; and*

*(B) one of whom shall represent the energy industry.*

*(3) APPOINTMENTS BY THE PRESIDENT.—The President shall appoint three members—*

*(A) one of whom shall represent consumer groups focusing on energy issues;*

*(B) one of whom shall represent the energy industry; and*

*(C) one of whom shall represent the Department of Energy.*

*(c) INITIAL MEETING.—Not later than 60 days after the date of enactment of this Act, the Commission shall hold the first meeting of the Commission regardless of the number of members that have been appointed and shall select a Chairperson and Vice Chairperson from among the members of the Commission.*

*(d) ADMINISTRATIVE EXPENSES.—Members of the Commission shall serve without compensation, except for per diem and travel expenses*

*which shall be reimbursed, and the Department of Energy shall pay expenses as necessary to carry out this section, with the expenses not to exceed $400,000.*

*(e) STUDIES.—The Commission shall conduct a nationwide study of significant price spikes since 1990 in major United States consumer energy products, including electricity, gasoline, home heating oil, natural gas and propane with a focus on their causes including insufficient inventories, supply disruptions, refinery capacity limits, insufficient infrastructure, regulatory failures, demand growth, reliance on imported supplies, insufficient availability of alternative energy sources, abuse of market power, market concentration and any other relevant factors.*

*(f) REPORT.—Not later than 180 days after the date of the first meeting of the Commission, the Commission shall submit to Congress a report that contains the findings and conclusions of the Commission and any recommendations for legislation, administrative actions, and voluntary actions by industry and consumers to protect consumers and small businesses from future price spikes in consumer energy products.*

*(g) CONSULTATION.—The Commission shall consult with the Federal Trade Commission, the Federal Energy Regulatory Commission, the Department of Energy and other Federal and State agencies as appropriate.*

*(h) SUNSET.—The Commission shall terminate within 30 days after the submission of the report to Congress.*

***SEC. 1706. STUDY OF NATURAL GAS AND OTHER ENERGY TRANSMISSION INFRASTRUCTURE ACROSS THE GREAT LAKES.***

*(a) DEFINITIONS.—In this section:*

*(1) GREAT LAKE.—The term ''Great Lake'' means Lake Erie, Lake Huron (including Lake Saint Clair), Lake Michigan, Lake Ontario (including the Saint Lawrence River from Lake Ontario to the 45th parallel of latitude), and Lake Superior.*

*(2) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.*

*(b) STUDY.—*

*(1) IN GENERAL.—The Secretary, in consultation with representatives of appropriate Federal and State agencies, shall—*

*(A) conduct a study of—*

*(i) the location and extent of anticipated growth of natural gas and other energy transmission infrastructure proposed to be constructed across the Great Lakes; and*

*(ii) the environmental impacts of any natural gas or other energy transmission infrastructure proposed to be constructed across the Great Lakes; and*

*(B) make recommendations for minimizing the environmental impact of pipelines and other energy transmission infrastructure on the Great Lakes ecosystem.*

*(2) ADVISORY COMMITTEE.—Not later than 30 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to establish an advisory committee to ensure that the study is complete, objective, and of good quality.*

*(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings and recommendations resulting from the study under subsection (b).*

***SEC. 1707. NATIONAL ACADEMY OF SCIENCES STUDY OF PROCEDURES FOR SELECTION AND ASSESSMENT OF CERTAIN ROUTES FOR SHIPMENT OF SPENT NUCLEAR FUEL FROM RESEARCH NUCLEAR REACTORS.***

*(a) IN GENERAL.—The Secretary of Transportation shall enter into an agreement with the National Academy of Sciences under which agreement the National Academy of Sciences shall conduct a study of the procedures by which the Department of Energy, together with the Department of Transportation and the Nuclear Regulatory Commission, selects routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department of Energy facilities currently licensed to accept such spent nuclear fuel.*

*(b) ELEMENTS OF STUDY.—In conducting the study under subsection (a), the National Academy of Sciences shall analyze the manner in which the Department of Energy—*

*(1) selects potential routes for the shipment of spent nuclear fuel from research nuclear reactors between or among existing Department facilities currently licensed to accept such spent nuclear fuel;*

*(2) selects such a route for a specific shipment of such spent nuclear fuel; and*

*(3) conducts assessments of the risks associated with shipments of such spent nuclear fuel along such a route.*

*(c) CONSIDERATIONS REGARDING ROUTE SELECTION.—The analysis under subsection (b) shall include a consideration whether, and to what extent, the procedures analyzed for purposes of that subsection take into account the following:*

*(1) The proximity of the routes under consideration to major population centers and the risks associated with shipments of spent nuclear fuel from research nuclear reactors through densely populated areas.*

*(2) Current traffic and accident data with respect to the routes under consideration.*

*(3) The quality of the roads comprising the routes under consideration.*

*(4) Emergency response capabilities along the routes under consideration.*

*(5) The proximity of the routes under consideration to places or venues (including sports stadiums, convention centers, concert halls and theaters, and other venues) where large numbers of people gather.*

*(d) RECOMMENDATIONS.—In conducting the study under subsection (a), the National Academy of Sciences shall also make such recommendations regarding the matters studied as the National Academy of Sciences considers appropriate.*

*(e) DEADLINE FOR DISPERSAL OF FUNDS FOR STUDY.—The Secretary shall disperse to the National Academy of Sciences the funds for the cost of the study required by subsection (a) not later than 30 days after the date of the enactment of this Act.*

*(f) REPORT ON RESULTS OF STUDY.—Not later than 6 months after the date of the dispersal of funds under subsection (e), the National Academy of Sciences shall submit to the appropriate committees of Congress a report on the study conducted under subsection (a), including the recommendations required by subsection (d).*

*(g) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—*

*(1) the Committees on Commerce, Science, and Transportation, Energy and Natural Resources, and Environment and Public Works of the Senate; and*

*(2) the Committee on Energy and Commerce of the House of Representatives.*

***SEC. 1708. REPORT ON ENERGY SAVINGS AND WATER USE.***

*(a) REPORT.—The Secretary of Energy shall conduct a study of opportunities to reduce energy use by cost-effective improvements in the efficiency of municipal water and wastewater treatment and use, including water pumps, motors, and delivery systems; purification, conveyance and distribution; upgrading of aging water infrastructure, and improved methods for leakage monitoring, measuring, and reporting; and public education.*

*(b) SUBMISSION OF REPORT.—The Secretary of Energy shall submit a report on the results of the study, including any recommendations for implementation of measures and estimates of costs and resource savings, no later than 2 years from the date of enactment of this section.*

*(c) AUTHORIZATION.—There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.*

***SEC. 1709. REPORT ON RESEARCH ON HYDROGEN PRODUCTION AND USE.***

*Not later than 120 days after the date of enactment of this Act, the Secretary of Energy shall submit to Congress a report that identifies current or potential research projects at Department of Energy nuclear facilities relating to the production or use of hydrogen in fuel cell development or any other method or process enhancing alternative energy production technologies.*

## *DIVISION G—ENERGY INFRASTRUCTURE SECURITY*

## *TITLE XVIII—CRITICAL ENERGY INFRASTRUCTURE*

### *Subtitle A—Department of Energy Programs*

***SEC. 1801. DEFINITIONS.***

*In this title:*

*(1) CRITICAL ENERGY INFRASTRUCTURE.—*

*(A) IN GENERAL.—The term ''critical energy infrastructure'' means a physical or cyber-based system or service for—*

*(i) the generation, transmission or distribution of electric energy; or*

*(ii) the production, refining, or storage of petroleum, natural gas, or petroleum product—*

*the incapacity or destruction of which would have a debilitating impact on the defense or economic security of the United States.*

*(B) EXCLUSION.—The term shall not include a facility that is licensed by the Nuclear Regulatory Commission under section 103 or 104b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133 and 2134(b)).*

*(2) DEPARTMENT; NATIONAL LABORATORY; SECRETARY.—The terms ''Department'', ''National Laboratory'', and ''Secretary'' have the meaning given such terms in section 1203.*

***SEC. 1802. ROLE OF THE DEPARTMENT OF ENERGY.***

*Section 102 of the Department of Energy Organization Act (42 U.S.C. 7112) is amended by adding at the end the following:*

*''(20) To ensure the safety, reliability, and security of the Nation's energy infrastructure, and to respond to any threat to or disruption of such infrastructure, through activities including—*

*''(A) research and development;*

*''(B) financial assistance, technical assistance, and cooperative activities with States, industry, and other interested parties; and*

*''(C) education and public outreach activities.''.*

***SEC. 1803. CRITICAL ENERGY INFRASTRUCTURE PROGRAMS.***

*(a) PROGRAMS.—In addition to the authorities otherwise provided by law (including section 1261), the Secretary is authorized to establish programs of financial, technical, or administrative assistance to—*

*(1) enhance the security of critical energy infrastructure in the United States;*

*(2) develop and disseminate, in cooperation with industry, best practices for critical energy infrastructure assurance; and*

*(3) protect against, mitigate the effect of, and improve the ability to recover from disruptive incidents affecting critical energy infrastructure.*

*(b) REQUIREMENTS.—A program established under this section shall—*

*(1) be undertaken in consultation with the advisory committee established under section 1804;*

*(2) have available to it the scientific and technical resources of the Department, including resources at a National Laboratory; and*

*(3) be consistent with any overall Federal plan for national infrastructure security developed by the President or his designee.*

***SEC. 1804. ADVISORY COMMITTEE ON ENERGY INFRASTRUCTURE SECURITY.***

*(a) ESTABLISHMENT.—The Secretary shall establish an advisory committee, or utilize an existing advisory committee within the Department, to advise the Secretary on policies and programs related to the security of United States energy infrastructure.*

*(b) BALANCED MEMBERSHIP.—The Secretary shall ensure that the advisory committee established or utilized under subsection (a) has a membership with an appropriate balance among the various interests related to energy infrastructure security, including—*

*(1) scientific and technical experts;*

*(2) industrial managers;*

*(3) worker representatives;*

*(4) insurance companies or organizations;*

*(5) environmental organizations;*

*(6) representatives of State, local, and tribal governments; and*

*(7) such other interests as the Secretary may deem appropriate.*

*(c) EXPENSES.—Members of the advisory committee established or utilized under subsection (a) shall serve without compensation, and shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the committee.*

***SEC. 1805. BEST PRACTICES AND STANDARDS FOR ENERGY INFRASTRUCTURE SECURITY.***

*The Secretary, in consultation with the advisory committee under section 1804, shall enter into appropriate arrangements with one or more standard-setting organizations, or similar organizations, to assist the development of industry best practices and standards for security related to protecting critical energy infrastructure.*

***Subtitle B—Department of the Interior Programs***

***SEC. 1811. OUTER CONTINENTAL SHELF ENERGY INFRASTRUCTURE SECURITY.***

*(a) DEFINITIONS.—In this section:*

*(1) APPROVED STATE PLAN.—The term ''approved State plan'' means a State plan approved by the Secretary under subsection (c)(3).*

*(2) COASTLINE.—The term ''coastline'' has the same meaning as the term ''coast line'' as defined in subsection 2(c) of the Submerged Lands Act (43 U.S.C. 1301(c)).*

*(3) CRITICAL OCS ENERGY INFRASTRUCTURE FACILITY.—The term ''OCS critical energy infrastructure facility'' means—*

*(A) a facility located in an OCS Production State or in the waters of such State related to the production of oil or gas on the Outer Continental Shelf; or*

*(B) a related facility located in an OCS Production State or in the waters of such State that carries out a public service, transportation, or infrastructure activity critical to the operation of an Outer Continental Shelf energy infrastructure facility, as determined by the Secretary.*

*(4) DISTANCE.—The term ''distance'' means the minimum great circle distance, measured in statute miles.*

*(5) LEASED TRACT.—*

*(A) IN GENERAL.—The term ''leased tract'' means a tract that—*

*(i) is subject to a lease under section 6 or 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1335, 1337) for the purpose of drilling for, developing, and producing oil or natural gas resources; and*

*(ii) consists of a block, a portion of a block, a combination of blocks or portions of blocks, or a combination of portions of blocks, as—*

*(I) specified in the lease; and*

*(II) depicted on an outer Continental Shelf official protraction diagram.*

*(B) EXCLUSION.—The term ''leased tract'' does not include a tract described in subparagraph (A) that is located in a geographic area subject to a leasing moratorium on January 1, 2001, unless the lease was in production on that date.*

*(6) OCS POLITICAL SUBDIVISION.—The term ''OCS political subdivision'' means a county, parish, borough or any equivalent subdivision of an OCS Production State all or part of which subdivision lies within the coastal zone (as defined in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1)).*

*(7) OCS PRODUCTION STATE.—The term ''OCS Production State'' means the State of—*

*(A) Alaska;*

*(B) Alabama;*

*(C) California;*

*(D) Florida;*

*(E) Louisiana;*

*(F) Mississippi; or*

*(G) Texas.*

*(8) PRODUCTION.—The term ''production'' has the meaning given the term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).*

*(9) PROGRAM.—The term ''program'' means the Outer Continental Shelf Energy Infrastructure Security Program established under subsection (b).*

*(10) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—The term ''qualified Outer Continental Shelf revenues'' means all amounts received by the United States from each leased tract or portion of a leased tract lying seaward of the zone defined and governed by section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), or lying within such zone but to which section 8(g) does not apply, the geographic center of which lies within a distance of 200 miles from any part of the coastline of any State, including bonus bids, rents, royalties (including payments for royalties taken in kind and sold), net profit share payments, and related late payment interest. Such term does not include any revenues from a leased tract or portion of a leased tract that is included within any area of the Outer Continental Shelf where a moratorium on new leasing was in effect as of January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.*

*(11) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.*

*(12) STATE PLAN.—The term ''State plan'' means a State plan described in subsection (b).*

*(b) ESTABLISHMENT.—The Secretary shall establish a program, to be known as the ''Outer Continental Shelf Energy Infrastructure Security Program'', under which the Secretary shall provide funds to OCS Production States to implement approved State plans to provide security against hostile and natural threats to critical OCS energy infrastructure facilities and support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure activities. For purposes of this program, restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.*

*(c) STATE PLANS.—*

*(1) INITIAL PLAN.—Not later than 180 days after the date of enactment of this Act, to be eligible to receive funds under the program, the Governor of an OCS Production State shall submit to the Secretary a plan to provide security against hostile and natural threats to critical energy infrastructure facilities in the OCS Production State and to support any of the necessary public service or transportation activities that are needed to maintain the safety and operation of critical energy infrastructure facilities. Such plan shall include—*

*(A) the name of the State agency that will have the authority to represent and act for the State in dealing with the Secretary for purposes of this section;*

*(B) a program for the implementation of the plan which describes how the amounts provided under this section will be used;*

*(C) a contact for each OCS political subdivision and description of how such political subdivisions will use amounts provided under this section, including a certification by the Governor that such uses are consistent with the requirements of this section; and*

*(D) measures for taking into account other relevant Federal resources and programs.*

*(2) ANNUAL REVIEWS.—Not later than 1 year after the date of submission of the plan and annually thereafter, the Governor of an OCS Production State shall—*

*(A) review the approved State plan; and*

*(B) submit to the Secretary any revised State plan resulting from the review.*

*(3) APPROVAL OF PLANS.—*

*(A) IN GENERAL.—In consultation with appropriate Federal security officials and the Secretaries of Commerce and Energy, the Secretary shall—*

*(i) approve each State plan; or*

*(ii) recommend changes to the State plan.*

*(B) RESUBMISSION OF STATE PLANS.—If the Secretary recommends changes to a State plan under subparagraph (A)(ii), the Governor of the OCS Production State may resubmit a revised State plan to the Secretary for approval.*

*(4) AVAILABILITY OF PLANS.—The Secretary shall provide to Congress a copy of each approved State plan.*

*(5) CONSULTATION AND PUBLIC COMMENT.—*

*(A) CONSULTATION.—The Governor of an OCS Production State shall develop the State plan in consultation with Federal, State, and local law enforcement and public safety officials, industry, Indian tribes, the scientific community, and other persons as appropriate.*

*(B) PUBLIC COMMENT.—The Governor of an OCS Production State may solicit public comments on the State plan to the extent that the Governor determines to be appropriate.*

*(d) ALLOCATION OF AMOUNTS BY THE SECRETARY.—The Secretary shall allocate the amounts made available for the purposes of carrying out the program provided for by this section among OCS Production States as follows:*

*(1) twenty-five percent of the amounts shall be divided equally among OCS Production States.*

*(2) seventy-five percent of the amounts shall be divided among OCS Production States on the basis of the proximity of each OCS Production State to offshore locations at which oil and gas are being produced.*

*(e) CALCULATION.—The amount for each OCS Production State under paragraph (d)(2) shall be calculated based on the ratio of qualified OCS revenues generated off the coastline of the OCS Production State to the qualified OCS revenues generated off the coastlines of all OCS Production States for the prior 5-year period. Where there is more than one OCS Production State within 200 miles of a leased tract, the amount of each OCS Production State's payment under paragraph (d)(2) for such leased tract shall be inversely proportional to the distance between the nearest point on the coastline of such State and the geographic center of each leased tract or portion of the leased tract (to the nearest whole mile) that is within 200 miles of that coastline, as determined by the Secretary. A leased tract or portion of a leased tract shall be excluded if the tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.*

*(f) PAYMENTS TO OCS POLITICAL SUBDIVISIONS.—Thirty-five percent of each OCS Production State's allocable share as determined under subsection (e) shall be paid directly to the OCS political subdivisions by the Secretary based on the following formula:*

*(1) twenty-five percent shall be allocated based on the ratio of such OCS political subdivision's population to the population of all OCS political subdivisions in the OCS Production State.*

*(2) twenty-five percent shall be allocated based on the ratio of such OCS political subdivision's coastline miles to the coastline miles of all OCS political subdivisions in the OCS Production State. For purposes of this subsection, those OCS political subdivisions without coastlines*

*shall be considered to have a coastline that is the average length of the coastlines of all political subdivisions in the State.*

*(3) fifty percent shall be allocated based on the relative distance of such OCS political subdivision from any leased tract used to calculate that OCS Production State's allocation using ratios that are inversely proportional to the distance between the point in the coastal political subdivision closest to the geographic center of each leased tract or portion, as determined by the Secretary. For purposes of the calculations under this subparagraph, a leased tract or portion of a leased tract shall be excluded if the leased tract or portion is located in a geographic area where a moratorium on new leasing was in effect on January 1, 2001, unless the lease was issued prior to the establishment of the moratorium and was in production on January 1, 2001.*

*(g) FAILURE TO HAVE PLAN APPROVED.—Any amount allocated to an OCS Production State or OCS political subdivision but not disbursed because of a failure to have an approved Plan under this section shall be allocated equally by the Secretary among all other OCS Production States in a manner consistent with this subsection except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the disapproval of a plan submitted under this section. The Secretary may waive the provisions of this paragraph and hold an OCS Production State's allocable share in escrow if the Secretary determines that such State is making a good faith effort to develop and submit, or update, a Plan.*

*(h) USE OF AMOUNTS ALLOCATED BY THE SECRETARY.—*

*(1) IN GENERAL.—Amounts allocated by the Secretary under subsection (d) may be used only in accordance with a plan approved pursuant to subsection (c) for—*

*(A) activities to secure critical OCS energy infrastructure facilities from human or natural threats; and*

*(B) support of any necessary public service or transportation activities that are needed to maintain the safety and operation of critical OCS energy infrastructure facilities.*

*(2) RESTORATION OF COASTAL WETLAND.—For the purpose of subparagraph (1)(A), restoration of any coastal wetland shall be considered to be an activity that secures critical OCS energy infrastructure facilities from a natural threat.*

*(i) FAILURE TO HAVE USE.—Any amount allocated to an OCS political subdivision but not disbursed because of a failure to have a qualifying use as described in subsection (h) shall be allocated by the Secretary to the OCS Production State in which the OCS political subdivision is located except that the Secretary shall hold in escrow such amount until the final resolution of any appeal regarding the use of the funds.*

*(j) COMPLIANCE WITH AUTHORIZED USES.—If the Secretary determines that any expenditure made by an OCS Production State or an OCS political subdivision is not consistent with the uses authorized in subsection (h), the Secretary shall not disburse any further amounts under this section to that OCS Production State or OCS political subdivision until the amounts used for the inconsistent expenditure have been repaid or obligated for authorized uses.*

*(k) RULEMAKING.—The Secretary may promulgate such rules and regulations as may be necessary to carry out the purposes of this section, including rules and regulations setting forth an appropriate process for appeals.*

*(l) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated $450,000,000 for each of the fiscal years 2003 through 2008 to carry out the purposes of this section.*

## *DIVISION H—ENERGY TAX INCENTIVES*

### *SEC. 1900. SHORT TITLE; ETC.*

*(a) SHORT TITLE.—This division may be cited as the ''Energy Tax Incentives Act of 2002''.*

*(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.*

## *TITLE XIX—EXTENSION AND MODIFICATION OF RENEWABLE ELECTRICITY PRODUCTION TAX CREDIT*

### *SEC. 1901. THREE-YEAR EXTENSION OF CREDIT FOR PRODUCING ELECTRICITY FROM WIND AND POULTRY WASTE.*

*(a) IN GENERAL.—Subparagraphs (A) and (C) of section 45(c)(3) (relating to qualified facility), as amended by section 603(a) of the Job Creation and Worker Assistance Act of 2002, are each amended by striking ''January 1, 2004'' and inserting ''January 1, 2007''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.*

### *SEC. 1902. CREDIT FOR ELECTRICITY PRODUCED FROM BIOMASS.*

*(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) is amended—*

*(1) by striking subparagraph (B) and inserting the following new subparagraph:*

*''(B) CLOSED-LOOP BIOMASS FACILITY.—*

*''(i) IN GENERAL.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility—*

*''(I) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2007, or*

*''(II) owned by the taxpayer which is originally placed in service before January 1, 1993, and modified to use closed-loop biomass to cofire with coal before January 1, 2007, as approved under the Biomass Power for Rural Development Programs or under a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.*

*''(ii) SPECIAL RULES.—In the case of a qualified facility described in clause (i)(II)—*

*''(I) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subclause, and*

*''(II) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.'', and*

*(2) by adding at the end the following new subparagraph:*

*''(D) BIOMASS FACILITY.—*

*''(i) IN GENERAL.—In the case of a facility using biomass (other than closed-loop biomass) to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2005.*

*''(ii) SPECIAL RULE FOR POSTEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service after the date of the enactment of this clause, the 3-year period beginning on the date the facility is originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).*

*''(iii) SPECIAL RULES FOR PREEFFECTIVE DATE FACILITIES.—In the case of any facility described in clause (i) which is placed in service before the date of the enactment of this clause—*

*''(I) subsection (a)(1) shall be applied by substituting '1.0 cents' for '1.5 cents', and*

*''(II) the 3-year period beginning after December 31, 2002, shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).*

*''(iv) CREDIT ELIGIBILITY.—In the case of any facility described in clause (i), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) is the lessee or the operator of such facility.''.*

*(b) DEFINITION OF BIOMASS.—*

*(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources) is amended—*

*(A) by striking ''and'' at the end of subparagraph (B),*

*(B) by striking the period at the end of subparagraph (C) and inserting '', and'', and*

*(C) by adding at the end the following new subparagraph:*

*''(D) biomass (other than closed-loop biomass).''.*

*(2) BIOMASS DEFINED.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:*

*''(5) BIOMASS.—The term 'biomass' means any solid, nonhazardous, cellulosic waste material which is segregated from other waste materials and which is derived from—*

*''(A) any of the following forest-related resources: mill residues, precommercial thinnings, slash, and brush, but not including old-growth timber (other than old-growth timber which has been permitted or contracted for removal by any appropriate Federal authority through the National Environmental Policy Act or by any appropriate State authority),*

*''(B) solid wood waste materials, including waste pallets, crates, dunnage, manufacturing and construction wood wastes (other than pressure-treated, chemically-treated, or painted wood wastes), and landscape or right-of-way tree trimmings, but not including municipal solid waste (garbage), gas derived from the biodegradation of solid waste, or paper that is commonly recycled, or*

*''(C) agriculture sources, including orchard tree crops, vineyard, grain, legumes, sugar, and other crop by-products or residues.''.*

*(c) COORDINATION WITH SECTION 29.—Section 45(c) (relating to definitions) is amended by adding at the end the following new paragraph:*

*''(6) COORDINATION WITH SECTION 29.—The term 'qualified facility' shall not include any facility the production from which is taken into account in determining any credit under section 29 for the taxable year or any prior taxable year.''.*

*(d) CLERICAL AMENDMENTS.—*

*(1) The heading for subsection (c) of section 45 is amended by inserting ''AND SPECIAL RULES'' after ''DEFINITIONS''.*

*(2) The heading for subsection (d) of section 45 is amended by inserting ''ADDITIONAL'' before ''DEFINITIONS''.*

*(e) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to electricity sold after the date of the enactment of this Act.*

*(2) CERTAIN BIOMASS FACILITIES.—With respect to any facility described in section 45(c)(3)(D)(i) of the Internal Revenue Code of 1986, as added by this section, which is placed in service before the date of the enactment of this Act, the amendments made by this section shall apply to electricity sold after December 31, 2002.*

### *SEC. 1903. CREDIT FOR ELECTRICITY PRODUCED FROM SWINE AND BOVINE WASTE NUTRIENTS, GEOTHERMAL ENERGY, AND SOLAR ENERGY.*

*(a) EXPANSION OF QUALIFIED ENERGY RESOURCES.—*

*(1) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting a comma, and by adding at the end the following new subparagraphs:*

*''(E) swine and bovine waste nutrients,*

*''(F) geothermal energy, and*

*''(G) solar energy.''.*

*(2) DEFINITIONS.—Section 45(c) (relating to definitions and special rules), as amended by this Act, is amended by redesignating paragraph (6) as paragraph (8) and by inserting after paragraph (5) the following new paragraphs:*

''(6) SWINE AND BOVINE WASTE NUTRIENTS.—The term 'swine and bovine waste nutrients' means swine and bovine manure and litter, including bedding material for the disposition of manure.

''(7) GEOTHERMAL ENERGY.—The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2)).''.

(b) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(E) SWINE AND BOVINE WASTE NUTRIENTS FACILITY.—In the case of a facility using swine and bovine waste nutrients to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this subparagraph and before January 1, 2007.

''(F) GEOTHERMAL OR SOLAR ENERGY FACILITY.—

''(i) IN GENERAL.—In the case of a facility using geothermal or solar energy to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this clause and before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of any facility described in clause (i), the 5-year period beginning on the date the facility was originally placed in service shall be substituted for the 10-year period in subsection (a)(2)(A)(ii).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1904. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.**

(a) IN GENERAL.—Section 45(d) (relating to additional definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(8) TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.—

''(A) ALLOWANCE OF CREDIT.—

''(i) IN GENERAL.—Except as otherwise provided in this subsection—

''(I) any credit allowable under subsection (a) with respect to a qualified facility owned by a person described in clause (ii) may be transferred or used as provided in this paragraph, and

''(II) the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(ii) PERSONS DESCRIBED.—A person is described in this clause if the person is—

''(I) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(II) an organization described in section 1381(a)(2)(C),

''(III) a public utility (as defined in section 136(c)(2)(B)), which is exempt from income tax under this subtitle,

''(IV) any State or political subdivision thereof, the District of Columbia, any possession of the United States, or any agency or instrumentality of any of the foregoing, or

''(V) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof.

''(B) TRANSFER OF CREDIT.—

''(i) IN GENERAL.—A person described in subparagraph (A)(ii) may transfer any credit to which subparagraph (A)(i) applies through an assignment to any other person not described in subparagraph (A)(ii). Such transfer may be revoked only with the consent of the Secretary.

''(ii) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to ensure that any credit described in clause (i) is claimed once and not reassigned by such other person.

''(iii) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in subclause (III), (IV), or (V) of subparagraph (A)(ii) from the transfer of any credit under clause (i) shall be treated as arising from the exercise of an essential government function.

''(C) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in subclause (I), (II), or (V) of subparagraph (A)(ii), any credit to which subparagraph (A)(i) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002.

''(D) CREDIT NOT INCOME.—Any transfer under subparagraph (B) or use under subparagraph (C) of any credit to which subparagraph (A)(i) applies shall not be treated as income for purposes of section 501(c)(12).

''(E) TREATMENT OF UNRELATED PERSONS.—For purposes of subsection (a)(2)(B), sales among and between persons described in subparagraph (A)(ii) shall be treated as sales between unrelated parties.''.

(b) CREDITS NOT REDUCED BY TAX-EXEMPT BONDS OR CERTAIN OTHER SUBSIDIES.—Section 45(b)(3) (relating to credit reduced for grants, tax-exempt bonds, subsidized energy financing, and other credits) is amended—

(1) by striking clause (ii),

(2) by redesignating clauses (iii) and (iv) as clauses (ii) and (iii),

(3) by inserting ''(other than any loan, debt, or other obligation incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002)'' after ''project'' in clause (ii) (as so redesignated),

(4) by adding at the end the following new sentence: ''This paragraph shall not apply with respect to any facility described in subsection (c)(3)(B)(i)(II).'', and

(5) by striking ''TAX-EXEMPT BONDS,'' in the heading and inserting ''CERTAIN''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1905. CREDIT FOR ELECTRICITY PRODUCED FROM SMALL IRRIGATION POWER.**

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G) and inserting '', and'', and by adding at the end the following new subparagraph:

''(H) small irrigation power.''.

(b) QUALIFIED FACILITY.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraph:

''(G) SMALL IRRIGATION POWER FACILITY.—In the case of a facility using small irrigation power to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after date of the enactment of this subparagraph and before January 1, 2007.''.

(c) DEFINITION.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) SMALL IRRIGATION POWER.—The term 'small irrigation power' means power—

''(A) generated without any dam or impoundment of water through an irrigation system canal or ditch, and

''(B) the installed capacity of which is less than 5 megawatts.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 1906. CREDIT FOR ELECTRICITY PRODUCED FROM MUNICIPAL BIOSOLIDS AND RECYCLED SLUDGE.**

(a) IN GENERAL.—Section 45(c)(1) (defining qualified energy resources), as amended by this Act, is amended by striking ''and'' at the end of subparagraph (F), by striking the period at the end of subparagraph (G), and by adding at the end the following new subparagraphs:

''(H) municipal biosolids, and

''(I) recycled sludge.''.

(b) QUALIFIED FACILITIES.—Section 45(c)(3) (relating to qualified facility), as amended by this Act, is amended by adding at the end the following new subparagraphs:

''(G) MUNICIPAL BIOSOLIDS FACILITY.—In the case of a facility using municipal biosolids to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 2001, and before January 1, 2007.

''(H) RECYCLED SLUDGE FACILITY.—

''(i) IN GENERAL.—In the case of a facility using recycled sludge to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service before January 1, 2007.

''(ii) SPECIAL RULE.—In the case of a qualified facility described in clause (i), the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this subparagraph.''.

(c) DEFINITIONS.—Section 45(c), as amended by this Act, is amended by redesignating paragraph (8) as paragraph (10) and by inserting after paragraph (7) the following new paragraphs:

''(8) MUNICIPAL BIOSOLIDS.—The term 'municipal biosolids' means the residue or solids removed by a municipal wastewater treatment facility.

''(9) RECYCLED SLUDGE.—

''(A) IN GENERAL.—The term 'recycled sludge' means the recycled residue byproduct created in the treatment of commercial, industrial, municipal, or navigational wastewater.

''(B) RECYCLED.—The term 'recycled' means the processing of residue into a marketable product, but does not include incineration for the purpose of volume reduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity sold after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE XX—ALTERNATIVE MOTOR VEHICLES AND FUELS INCENTIVES

**SEC. 2001. ALTERNATIVE MOTOR VEHICLE CREDIT.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

**''SEC. 30B. ALTERNATIVE MOTOR VEHICLE CREDIT.**

''(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) the new qualified fuel cell motor vehicle credit determined under subsection (b),

''(2) the new qualified hybrid motor vehicle credit determined under subsection (c), and

''(3) the new qualified alternative fuel motor vehicle credit determined under subsection (d).

''(b) NEW QUALIFIED FUEL CELL MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified fuel cell motor vehicle credit determined under this subsection with respect to a new qualified fuel cell motor vehicle placed in service by the taxpayer during the taxable year is—

''(A) $4,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,

''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,

''(C) $20,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and

''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.

''(2) INCREASE FOR FUEL EFFICIENCY.—

''(A) IN GENERAL.—The amount determined under paragraph (1)(A) with respect to a new qualified fuel cell motor vehicle which is a passenger automobile or light truck shall be increased by—

''(i) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(ii) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(iii) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(iv) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy,

''(v) $3,000, if such vehicle achieves at least 250 percent but less than 275 percent of the 2000 model year city fuel economy,

''(vi) $3,500, if such vehicle achieves at least 275 percent but less than 300 percent of the 2000 model year city fuel economy, and

''(vii) $4,000, if such vehicle achieves at least 300 percent of the 2000 model year city fuel economy.

''(B) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of subparagraph (A), the 2000 model year city fuel economy with respect to a vehicle shall be determined in accordance with the following tables:

''(i) In the case of a passenger automobile:

| "If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 43.7 mpg |
| 2,000 lbs | 38.3 mpg |
| 2,250 lbs | 34.1 mpg |
| 2,500 lbs | 30.7 mpg |
| 2,750 lbs | 27.9 mpg |
| 3,000 lbs | 25.6 mpg |
| 3,500 lbs | 22.0 mpg |
| 4,000 lbs | 19.3 mpg |
| 4,500 lbs | 17.2 mpg |
| 5,000 lbs | 15.5 mpg |
| 5,500 lbs | 14.1 mpg |
| 6,000 lbs | 12.9 mpg |
| 6,500 lbs | 11.9 mpg |
| 7,000 to 8,500 lbs | 11.1 mpg. |

''(ii) In the case of a light truck:

| "If vehicle inertia weight class is: | The 2000 model year city fuel economy is: |
|---|---|
| 1,500 or 1,750 lbs | 37.6 mpg |
| 2,000 lbs | 33.7 mpg |
| 2,250 lbs | 30.6 mpg |
| 2,500 lbs | 28.0 mpg |
| 2,750 lbs | 25.9 mpg |
| 3,000 lbs | 24.1 mpg |
| 3,500 lbs | 21.3 mpg |
| 4,000 lbs | 19.0 mpg |
| 4,500 lbs | 17.3 mpg |
| 5,000 lbs | 15.8 mpg |
| 5,500 lbs | 14.6 mpg |
| 6,000 lbs | 13.6 mpg |
| 6,500 lbs | 12.8 mpg |
| 7,000 to 8,500 lbs | 12.0 mpg. |

''(C) VEHICLE INERTIA WEIGHT CLASS.—For purposes of subparagraph (B), the term 'vehicle inertia weight class' has the same meaning as when defined in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).

''(3) NEW QUALIFIED FUEL CELL MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified fuel cell motor vehicle' means a motor vehicle—

''(A) which is propelled by power derived from one or more cells which convert chemical energy directly into electricity by combining oxygen with hydrogen fuel which is stored on board the vehicle in any form and may or may not require reformation prior to use,

''(B) which, in the case of a passenger automobile or light truck—

''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and

''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,

''(C) the original use of which commences with the taxpayer,

''(D) which is acquired for use or lease by the taxpayer and not for resale, and

''(E) which is made by a manufacturer.

''(c) NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the new qualified hybrid motor vehicle credit determined under this subsection with respect to a new qualified hybrid motor vehicle placed in service by the taxpayer during the taxable year is the credit amount determined under paragraph (2).

''(2) CREDIT AMOUNT.—

''(A) IN GENERAL.—The credit amount determined under this paragraph shall be determined in accordance with the following tables:

''(i) In the case of a new qualified hybrid motor vehicle which is a passenger automobile or light truck and which provides the following percentage of the maximum available power:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 5 percent but less than 10 percent. | $250 |
| At least 10 percent but less than 20 percent. | $500 |
| At least 20 percent but less than 30 percent. | $750 |
| At least 30 percent | $1,000. |

''(ii) In the case of a new qualified hybrid motor vehicle which is a heavy duty hybrid motor vehicle and which provides the following percentage of the maximum available power:

''(I) If such vehicle has a gross vehicle weight rating of not more than 14,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $1,000 |
| At least 30 percent but less than 40 percent. | $1,750 |
| At least 40 percent but less than 50 percent. | $2,000 |
| At least 50 percent but less than 60 percent. | $2,250 |
| At least 60 percent | $2,500. |

''(II) If such vehicle has a gross vehicle weight rating of more than 14,000 but not more than 26,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $4,000 |
| At least 30 percent but less than 40 percent. | $4,500 |
| At least 40 percent but less than 50 percent. | $5,000 |
| At least 50 percent but less than 60 percent. | $5,500 |
| At least 60 percent | $6,000. |

''(III) If such vehicle has a gross vehicle weight rating of more than 26,000 pounds:

| "If percentage of the maximum available power is: | The credit amount is: |
|---|---|
| At least 20 percent but less than 30 percent. | $6,000 |
| At least 30 percent but less than 40 percent. | $7,000 |
| At least 40 percent but less than 50 percent. | $8,000 |
| At least 50 percent but less than 60 percent. | $9,000 |
| At least 60 percent | $10,000. |

''(B) INCREASE FOR FUEL EFFICIENCY.—

''(i) AMOUNT.—The amount determined under subparagraph (A)(i) with respect to a new qualified hybrid motor vehicle which is a passenger automobile or light truck shall be increased by—

''(I) $500, if such vehicle achieves at least 125 percent but less than 150 percent of the 2000 model year city fuel economy,

''(II) $1,000, if such vehicle achieves at least 150 percent but less than 175 percent of the 2000 model year city fuel economy,

''(III) $1,500, if such vehicle achieves at least 175 percent but less than 200 percent of the 2000 model year city fuel economy,

''(IV) $2,000, if such vehicle achieves at least 200 percent but less than 225 percent of the 2000 model year city fuel economy,

''(V) $2,500, if such vehicle achieves at least 225 percent but less than 250 percent of the 2000 model year city fuel economy, and

''(VI) $3,000, if such vehicle achieves at least 250 percent of the 2000 model year city fuel economy.

''(ii) 2000 MODEL YEAR CITY FUEL ECONOMY.—For purposes of clause (i), the 2000 model year city fuel economy with respect to a vehicle shall be determined using the tables provided in subsection (b)(2)(B) with respect to such vehicle.

''(C) INCREASE FOR ACCELERATED EMISSIONS PERFORMANCE.—The amount determined under subparagraph (A)(ii) with respect to an applicable heavy duty hybrid motor vehicle shall be increased by the increased credit amount determined in accordance with the following tables:

''(i) In the case of a vehicle which has a gross vehicle weight rating of not more than 14,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $3,500 |
| 2003 | $3,000 |
| 2004 | $2,500 |
| 2005 | $2,000 |
| 2006 | $1,500. |

''(ii) In the case of a vehicle which has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $9,000 |
| 2003 | $7,750 |
| 2004 | $6,500 |
| 2005 | $5,250 |
| 2006 | $4,000. |

''(iii) In the case of a vehicle which has a gross vehicle weight rating of more than 26,000 pounds:

| "If the model year is: | The increased credit amount is: |
|---|---|
| 2002 | $14,000 |
| 2003 | $12,000 |
| 2004 | $10,000 |
| 2005 | $8,000 |
| 2006 | $6,000. |

''(D) DEFINITIONS.—

''(i) APPLICABLE HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (C), the term 'applicable heavy duty hybrid motor vehicle' means a heavy duty hybrid motor vehicle which is powered by an internal combustion or heat engine which is certified as meeting the emission standards set in the regulations prescribed by the Administrator of the Environmental Protection Agency for 2007 and later model year diesel heavy duty engines, or for 2008 and later model year ottocycle heavy duty engines, as applicable.

''(ii) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of this paragraph, the term 'heavy

*duty hybrid motor vehicle' means a new qualified hybrid motor vehicle which has a gross vehicle weight rating of more than 10,000 pounds and draws propulsion energy from both of the following onboard sources of stored energy:*

*''(I) An internal combustion or heat engine using consumable fuel which, for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds a level of not greater than 3.0 grams per brake horsepower–hour of oxides of nitrogen and 0.01 per brake horsepower–hour of particulate matter.*

*''(II) A rechargeable energy storage system.*

*''(iii) MAXIMUM AVAILABLE POWER.—*

*''(I) PASSENGER AUTOMOBILE OR LIGHT TRUCK.—For purposes of subparagraph (A)(i), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by such maximum power and the SAE net power of the heat engine.*

*''(II) HEAVY DUTY HYBRID MOTOR VEHICLE.—For purposes of subparagraph (A)(ii), the term 'maximum available power' means the maximum power available from the rechargeable energy storage system, during a standard 10 second pulse power or equivalent test, divided by the vehicle's total traction power. The term 'total traction power' means the sum of the peak power from the rechargeable energy storage system and the heat engine peak power of the vehicle, except that if such storage system is the sole means by which the vehicle can be driven, the total traction power is the peak power of such storage system.*

*''(3) NEW QUALIFIED HYBRID MOTOR VEHICLE.—For purposes of this subsection, the term 'new qualified hybrid motor vehicle' means a motor vehicle—*

*''(A) which draws propulsion energy from onboard sources of stored energy which are both—*

*''(i) an internal combustion or heat engine using combustible fuel, and*

*''(ii) a rechargeable energy storage system,*

*''(B) which, in the case of a passenger automobile or light truck—*

*''(i) for 2002 and later model vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard under section 243(e)(2) of the Clean Air Act for that make and model year, and*

*''(ii) for 2004 and later model vehicles, has received a certificate that such vehicle meets or exceeds the Bin 5 Tier II emission level established in regulations prescribed by the Administrator of the Environmental Protection Agency under section 202(i) of the Clean Air Act for that make and model year vehicle,*

*''(C) the original use of which commences with the taxpayer,*

*''(D) which is acquired for use or lease by the taxpayer and not for resale, and*

*''(E) which is made by a manufacturer.*

*''(d) NEW QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE CREDIT.—*

*''(1) ALLOWANCE OF CREDIT.—Except as provided in paragraph (5), the credit determined under this subsection is an amount equal to the applicable percentage of the incremental cost of any new qualified alternative fuel motor vehicle placed in service by the taxpayer during the taxable year.*

*''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage with respect to any new qualified alternative fuel motor vehicle is—*

*''(A) 40 percent, plus*

*''(B) 30 percent, if such vehicle—*

*''(i) has received a certificate of conformity under the Clean Air Act and meets or exceeds the most stringent standard available for certification under the Clean Air Act for that make and model year vehicle (other than a zero emission standard), or*

*''(ii) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the most stringent standard available for certification under the State laws of California (enacted in accordance with a waiver granted under section 209(b) of the Clean Air Act) for that make and model year vehicle (other than a zero emission standard).*

*''(3) INCREMENTAL COST.—For purposes of this subsection, the incremental cost of any new qualified alternative fuel motor vehicle is equal to the amount of the excess of the manufacturer's suggested retail price for such vehicle over such price for a gasoline or diesel fuel motor vehicle of the same model, to the extent such amount does not exceed—*

*''(A) $5,000, if such vehicle has a gross vehicle weight rating of not more than 8,500 pounds,*

*''(B) $10,000, if such vehicle has a gross vehicle weight rating of more than 8,500 pounds but not more than 14,000 pounds,*

*''(C) $25,000, if such vehicle has a gross vehicle weight rating of more than 14,000 pounds but not more than 26,000 pounds, and*

*''(D) $40,000, if such vehicle has a gross vehicle weight rating of more than 26,000 pounds.*

*''(4) QUALIFIED ALTERNATIVE FUEL MOTOR VEHICLE DEFINED.—For purposes of this subsection—*

*''(A) IN GENERAL.—The term 'qualified alternative fuel motor vehicle' means any motor vehicle—*

*''(i) which is only capable of operating on an alternative fuel,*

*''(ii) the original use of which commences with the taxpayer,*

*''(iii) which is acquired by the taxpayer for use or lease, but not for resale, and*

*''(iv) which is made by a manufacturer.*

*''(B) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol.*

*''(5) CREDIT FOR MIXED-FUEL VEHICLES.—*

*''(A) IN GENERAL.—In the case of a mixed-fuel vehicle placed in service by the taxpayer during the taxable year, the credit determined under this subsection is an amount equal to—*

*''(i) in the case of a 75/25 mixed-fuel vehicle, 70 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle, and*

*''(ii) in the case of a 90/10 mixed-fuel vehicle, 90 percent of the credit which would have been allowed under this subsection if such vehicle was a qualified alternative fuel motor vehicle.*

*''(B) MIXED-FUEL VEHICLE.—For purposes of this subsection, the term 'mixed-fuel vehicle' means any motor vehicle described in subparagraph (C) or (D) of paragraph (3), which—*

*''(i) is certified by the manufacturer as being able to perform efficiently in normal operation on a combination of an alternative fuel and a petroleum-based fuel,*

*''(ii) either—*

*''(I) has received a certificate of conformity under the Clean Air Act, or*

*''(II) has received an order certifying the vehicle as meeting the same requirements as vehicles which may be sold or leased in California and meets or exceeds the low emission vehicle standard under section 88.105-94 of title 40, Code of Federal Regulations, for that make and model year vehicle,*

*''(iii) the original use of which commences with the taxpayer,*

*''(iv) which is acquired by the taxpayer for use or lease, but not for resale, and*

*''(v) which is made by a manufacturer.*

*''(C) 75/25 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '75/25 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 75 percent alternative fuel and not more than 25 percent petroleum-based fuel.*

*''(D) 90/10 MIXED-FUEL VEHICLE.—For purposes of this subsection, the term '90/10 mixed-fuel vehicle' means a mixed-fuel vehicle which operates using at least 90 percent alternative fuel and not more than 10 percent petroleum-based fuel.*

*''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—*

*''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over*

*''(2) the tentative minimum tax for the taxable year.*

*''(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—*

*''(1) CONSUMABLE FUEL.—The term 'consumable fuel' means any solid, liquid, or gaseous matter which releases energy when consumed by an auxiliary power unit.*

*''(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning given such term by section 30(c)(2).*

*''(3) CITY FUEL ECONOMY.—The city fuel economy with respect to any vehicle shall be measured in a manner which is substantially similar to the manner city fuel economy is measured in accordance with procedures under part 600 of subchapter Q of chapter I of title 40, Code of Federal Regulations, as in effect on the date of the enactment of this section.*

*''(4) OTHER TERMS.—The terms 'automobile', 'passenger automobile', 'light truck', and 'manufacturer' have the meanings given such terms in regulations prescribed by the Administrator of the Environmental Protection Agency for purposes of the administration of title II of the Clean Air Act (42 U.S.C. 7521 et seq.).*

*''(5) REDUCTION IN BASIS.—For purposes of this subtitle, the basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit so allowed (determined without regard to subsection (e)).*

*''(6) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter—*

*''(A) for any incremental cost taken into account in computing the amount of the credit determined under subsection (d) shall be reduced by the amount of such credit attributable to such cost, and*

*''(B) with respect to a vehicle described under subsection (b) or (c), shall be reduced by the amount of credit allowed under subsection (a) for such vehicle for the taxable year.*

*''(7) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a motor vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.*

*''(8) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit (including recapture in the case of a lease period of less than the economic life of a vehicle).*

*''(9) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.*

*''(10) ELECTION TO NOT TAKE CREDIT.—No credit shall be allowed under subsection (a) for any vehicle if the taxpayer elects to not have this section apply to such vehicle.*

*''(11) CARRYBACK AND CARRYFORWARD ALLOWED.—*

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(12) INTERACTION WITH AIR QUALITY AND MOTOR VEHICLE SAFETY STANDARDS.—Unless otherwise provided in this section, a motor vehicle shall not be considered eligible for a credit under this section unless such vehicle is in compliance with—

''(A) the applicable provisions of the Clean Air Act for the applicable make and model year of the vehicle (or applicable air quality provisions of State law in the case of a State which has adopted such provision under a waiver under section 209(b) of the Clean Air Act), and

''(B) the motor vehicle safety provisions of sections 30101 through 30169 of title 49, United States Code.

''(g) REGULATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall promulgate such regulations as necessary to carry out the provisions of this section.

''(2) COORDINATION IN PRESCRIPTION OF CERTAIN REGULATIONS.—The Secretary of the Treasury, in coordination with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall prescribe such regulations as necessary to determine whether a motor vehicle meets the requirements to be eligible for a credit under this section.

''(h) TERMINATION.—This section shall not apply to any property purchased after—

''(1) in the case of a new qualified fuel cell motor vehicle (as described in subsection (b)), December 31, 2011, and

''(2) in the case of any other property, December 31, 2006.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting '', and'', and by adding at the end the following new paragraph:

''(29) to the extent provided in section 30B(f)(5).''.

(2) Section 55(c)(2) is amended by inserting ''30B(e),'' after ''30(b)(3)''.

(3) Section 6501(m) is amended by inserting ''30B(f)(10),'' after ''30(d)(4),''.

(4) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 30A the following new item:

''Sec. 30B. Alternative motor vehicle credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2002. MODIFICATION OF CREDIT FOR QUALIFIED ELECTRIC VEHICLES.**

(a) AMOUNT OF CREDIT.—

(1) IN GENERAL.—Section 30(a) (relating to allowance of credit) is amended by striking ''10 percent of''.

(2) LIMITATION OF CREDIT ACCORDING TO TYPE OF VEHICLE.—Section 30(b) (relating to limitations) is amended—

(A) by striking paragraphs (1) and (2) and inserting the following new paragraph:

''(1) LIMITATION ACCORDING TO TYPE OF VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed the greatest of the following amounts applicable to such vehicle:

''(A) In the case of a vehicle which conforms to the Motor Vehicle Safety Standard 500 prescribed by the Secretary of Transportation, as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002, the lesser of—

''(i) 10 percent of the manufacturer's suggested retail price of the vehicle, or

''(ii) $1,500.

''(B) In the case of a vehicle not described in subparagraph (A) with a gross vehicle weight rating not exceeding 8,500 pounds—

''(i) $3,500, or

''(ii) $6,000, if such vehicle is—

''(I) capable of a driving range of at least 100 miles on a single charge of the vehicle's rechargeable batteries as measured pursuant to the urban dynamometer schedules under appendix I to part 86 of title 40, Code of Federal Regulations, or

''(II) capable of a payload capacity of at least 1,000 pounds.

''(C) In the case of a vehicle with a gross vehicle weight rating exceeding 8,500 but not exceeding 14,000 pounds, $10,000.

''(D) In the case of a vehicle with a gross vehicle weight rating exceeding 14,000 but not exceeding 26,000 pounds, $20,000.

''(E) In the case of a vehicle with a gross vehicle weight rating exceeding 26,000 pounds, $40,000.'', and

(B) by redesignating paragraph (3) as paragraph (2).

(3) CONFORMING AMENDMENTS.—

(A) Section 53(d)(1)(B)(iii) is amended by striking ''section 30(b)(3)(B)'' and inserting ''section 30(b)(2)(B)''.

(3) Section 55(c)(2), as amended by this Act, is amended by striking ''30(b)(3)'' and inserting ''30(b)(2)''.

(b) QUALIFIED BATTERY ELECTRIC VEHICLE.—

(1) IN GENERAL.—Section 30(c)(1)(A) (defining qualified electric vehicle) is amended to read as follows:

''(A) which is—

''(i) operated solely by use of a battery or battery pack, or

''(ii) powered primarily through the use of an electric battery or battery pack using a flywheel or capacitor which stores energy produced by an electric motor through regenerative braking to assist in vehicle operation,''.

(2) LEASED VEHICLES.—Section 30(c)(1)(C) is amended by inserting ''or lease'' after ''use''.

(3) CONFORMING AMENDMENTS.—

(A) Subsections (a), (b)(2), and (c) of section 30 are each amended by inserting ''battery'' after ''qualified'' each place it appears.

(B) The heading of subsection (c) of section 30 is amended by inserting ''BATTERY'' after ''QUALIFIED''.

(C) The heading of section 30 is amended by inserting ''battery'' after ''qualified''.

(D) The item relating to section 30 in the table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by inserting ''battery'' after ''qualified''.

(E) Section 179A(c)(3) is amended by inserting ''battery'' before ''electric''.

(F) The heading of paragraph (3) of section 179A(c) is amended by inserting ''BATTERY'' before ''ELECTRIC''.

(c) ADDITIONAL SPECIAL RULES.—Section 30(d) (relating to special rules) is amended by adding at the end the following new paragraphs:

''(5) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

''(6) PROPERTY USED BY TAX-EXEMPT ENTITIES.—In the case of a credit amount which is allowable with respect to a vehicle which is acquired by an entity exempt from tax under this chapter, the person which sells or leases such vehicle to the entity shall be treated as the taxpayer with respect to the vehicle for purposes of this section and the credit shall be allowed to such person, but only if the person clearly discloses to the entity at the time of any sale or lease the specific amount of any credit otherwise allowable to the entity under this section.

''(7) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (b)(2) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be allowed as a credit carryback for each of the 3 taxable years beginning after September 30, 2002, which precede the unused credit year and a credit carryforward for each of the 20 taxable years which succeed the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2003. CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.**

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 (relating to foreign tax credit, etc.), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 30C. CLEAN-FUEL VEHICLE REFUELING PROPERTY CREDIT.**

''(a) CREDIT ALLOWED.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 50 percent of the amount paid or incurred by the taxpayer during the taxable year for the installation of qualified clean-fuel vehicle refueling property.

''(b) LIMITATION.—The credit allowed under subsection (a)—

''(1) with respect to any retail clean-fuel vehicle refueling property, shall not exceed $30,000, and

''(2) with respect to any residential clean-fuel vehicle refueling property, shall not exceed $1,000.

''(c) YEAR CREDIT ALLOWED.—The credit allowed under subsection (a) shall be allowed in the taxable year in which the qualified clean-fuel vehicle refueling property is placed in service by the taxpayer.

''(d) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'qualified clean-fuel vehicle refueling property' has the same meaning given such term by section 179A(d).

''(2) RESIDENTIAL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'residential clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property which is used as the principal residence (within the meaning of section 121) of the taxpayer.

''(3) RETAIL CLEAN-FUEL VEHICLE REFUELING PROPERTY.—The term 'retail clean-fuel vehicle refueling property' means qualified clean-fuel vehicle refueling property which is installed on property (other than property described in paragraph (2)) used in a trade or business of the taxpayer.

''(e) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(1) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, 30, and 30B, over

''(2) the tentative minimum tax for the taxable year.

''(f) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

''(g) NO DOUBLE BENEFIT.—No deduction shall be allowed under section 179A with respect to any property with respect to which a credit is allowed under subsection (a).

''(h) REFUELING PROPERTY INSTALLED FOR TAX-EXEMPT ENTITIES.—In the case of qualified clean-fuel vehicle refueling property installed on property owned or used by an entity exempt from tax under this chapter, the person which installs such refueling property for the entity shall be treated as the taxpayer with respect to the refueling property for purposes of this section (and such refueling property shall be treated as retail clean-fuel vehicle refueling property) and the credit shall be allowed to such person, but only if the person clearly discloses to the entity in any installation contract the specific amount of the credit allowable under this section.

''(i) CARRYFORWARD ALLOWED.—

''(1) IN GENERAL.—If the credit amount allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (e) for such taxable year (referred to as the 'unused credit year' in this subsection), such excess shall be allowed as a credit carryforward for each of the 20 taxable years following the unused credit year.

''(2) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryforward under paragraph (1).

''(j) SPECIAL RULES.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) shall apply.

''(k) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2006.''.

(b) INCENTIVE FOR PRODUCTION OF HYDROGEN AT QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—Section 179A(d) (defining qualified clean-fuel vehicle refueling property) is amended by adding at the end the following new flush sentence:

''In the case of clean-burning fuel which is hydrogen produced from another clean-burning fuel, paragraph (3)(A) shall be applied by substituting 'production, storage, or dispensing' for 'storage or dispensing' both places it appears.''.

(c) CONFORMING AMENDMENTS.—(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (28), by striking the period at the end of paragraph (29) and inserting '', and'', and by adding at the end the following new paragraph:

''(30) to the extent provided in section 30C(f).''.

(2) Section 55(c)(2), as amended by this Act, is amended by inserting ''30C(e),'' after ''30B(e)''.

(3) The table of sections for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 30B the following new item:

''Sec. 30C. Clean-fuel vehicle refueling property credit.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

**SEC. 2004. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by inserting after section 40 the following new section:

**''SEC. 40A. CREDIT FOR RETAIL SALE OF ALTERNATIVE FUELS AS MOTOR VEHICLE FUEL.**

''(a) GENERAL RULE.—For purposes of section 38, the alternative fuel retail sales credit for any taxable year is the applicable amount for each gasoline gallon equivalent of alternative fuel sold at retail by the taxpayer during such year as a fuel to propel any qualified motor vehicle.

''(b) DEFINITIONS.—For purposes of this section—

''(1) APPLICABLE AMOUNT.—The term 'applicable amount' means the amount determined in accordance with the following table:

| **''In the case of any taxable year ending in—** | **The applicable amount is—** |
|---|---|
| 2002 and 2003 | 30 cents |
| 2004 | 40 cents |
| 2005 and 2006 | 50 cents.'' |

''(2) ALTERNATIVE FUEL.—The term 'alternative fuel' means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and any liquid at least 85 percent of the volume of which consists of methanol or ethanol.

''(3) GASOLINE GALLON EQUIVALENT.—The term 'gasoline gallon equivalent' means, with respect to any alternative fuel, the amount (determined by the Secretary) of such fuel having a Btu content of 114,000.

''(4) QUALIFIED MOTOR VEHICLE.—The term 'qualified motor vehicle' means any motor vehicle (as defined in section 30(c)(2)) which meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled.

''(5) SOLD AT RETAIL.—

''(A) IN GENERAL.—The term 'sold at retail' means the sale, for a purpose other than resale, after manufacture, production, or importation.

''(B) USE TREATED AS SALE.—If any person uses alternative fuel (including any use after importation) as a fuel to propel any qualified alternative fuel motor vehicle (as defined in section 30B(d)(4)) before such fuel is sold at retail, then such use shall be treated in the same manner as if such fuel were sold at retail as a fuel to propel such a vehicle by such person.

''(c) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.

''(d) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) TERMINATION.—This section shall not apply to any fuel sold at retail after December 31, 2006.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking ''plus'' at the end of paragraph (14), by striking the period at the end of paragraph (15) and inserting '', plus'', and by adding at the end the following new paragraph:

''(16) the alternative fuel retail sales credit determined under section 40A(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules) is amended by adding at the end the following new paragraph:

''(11) NO CARRYBACK OF SECTION 40A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the alternative fuel retail sales credit determined under section 40A(a) may be carried back to a taxable year ending before January 1, 2002.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 40 the following new item:

''Sec. 40A. Credit for retail sale of alternative fuels as motor vehicle fuel.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel sold at retail after September 30, 2002, in taxable years ending after such date.

**SEC. 2005. SMALL ETHANOL PRODUCER CREDIT.**

(a) ALLOCATION OF ALCOHOL FUELS CREDIT TO PATRONS OF A COOPERATIVE.—Section 40(g) (relating to alcohol used as fuel) is amended by adding at the end the following new paragraph:

''(6) ALLOCATION OF SMALL ETHANOL PRODUCER CREDIT TO PATRONS OF COOPERATIVE.—

''(A) ELECTION TO ALLOCATE.—

''(i) IN GENERAL.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a)(3) for the taxable year may, at the election of the organization, be apportioned pro rata among patrons of the organization on the basis of the quantity or value of business done with or for such patrons for the taxable year.

''(ii) FORM AND EFFECT OF ELECTION.—An election under clause (i) for any taxable year shall be made on a timely filed return for such year. Such election, once made, shall be irrevocable for such taxable year.

''(B) TREATMENT OF ORGANIZATIONS AND PATRONS.—The amount of the credit apportioned to patrons under subparagraph (A)—

''(i) shall not be included in the amount determined under subsection (a) with respect to the organization for the taxable year,

''(ii) shall be included in the amount determined under subsection (a) for the taxable year of each patron for which the patronage dividends for the taxable year described in subparagraph (A) are included in gross income, and

''(iii) shall be included in gross income of such patrons for the taxable year in the manner and to the extent provided in section 87.

''(C) SPECIAL RULES FOR DECREASE IN CREDITS FOR TAXABLE YEAR.—If the amount of the credit of a cooperative organization determined under subsection (a)(3) for a taxable year is less than the amount of such credit shown on the return of the cooperative organization for such year, an amount equal to the excess of—

''(i) such reduction, over

''(ii) the amount not apportioned to such patrons under subparagraph (A) for the taxable year,

shall be treated as an increase in tax imposed by this chapter on the organization. Such increase shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.''.

(b) IMPROVEMENTS TO SMALL ETHANOL PRODUCER CREDIT.—

(1) DEFINITION OF SMALL ETHANOL PRODUCER.—Section 40(g) (relating to definitions and special rules for eligible small ethanol producer credit) is amended by striking ''30,000,000'' each place it appears and inserting ''60,000,000''.

(2) SMALL ETHANOL PRODUCER CREDIT NOT A PASSIVE ACTIVITY CREDIT.—Clause (i) of section 469(d)(2)(A) is amended by striking ''subpart D'' and inserting ''subpart D, other than section 40(a)(3),''.

(3) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—

(A) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by section 301(b) of the Job Creation and Worker Assistance Act of 2002, is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

''(4) SPECIAL RULES FOR SMALL ETHANOL PRODUCER CREDIT.—

''(A) IN GENERAL.—In the case of the small ethanol producer credit—

''(i) this section and section 39 shall be applied separately with respect to the credit, and

''(ii) in applying paragraph (1) to the credit—

''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the small ethanol producer credit).

''(B) SMALL ETHANOL PRODUCER CREDIT.—For purposes of this subsection, the term 'small ethanol producer credit' means the credit allowable under subsection (a) by reason of section 40(a)(3).''.

(B) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by section 301(b)(2) of the Job Creation and Worker Assistance Act of 2002, and subclause (II) of section 38(c)(3)(A)(ii), as added by section 301(b)(1) of such Act, are each amended by inserting ''or the small ethanol producer credit'' after ''employee credit''.

(4) SMALL ETHANOL PRODUCER CREDIT NOT ADDED BACK TO INCOME UNDER SECTION 87.—Section 87 (relating to income inclusion of alcohol fuel credit) is amended to read as follows:

**''SEC. 87. ALCOHOL FUEL CREDIT.**

''Gross income includes an amount equal to the sum of—

''(1) the amount of the alcohol mixture credit determined with respect to the taxpayer for the taxable year under section 40(a)(1), and

''(2) the alcohol credit determined with respect to the taxpayer for the taxable year under section 40(a)(2).''.

(c) CONFORMING AMENDMENT.—Section 1388 (relating to definitions and special rules for cooperative organizations) is amended by adding at the end the following new subsection:

''(k) CROSS REFERENCE.—For provisions relating to the apportionment of the alcohol fuels credit between cooperative organizations and their patrons, see section 40(g)(6).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2006. ALL ALCOHOL FUELS TAXES TRANSFERRED TO HIGHWAY TRUST FUND.**

(a) IN GENERAL.—Section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) is amended—

(1) by adding ''or'' at the end of subparagraph (C),

(2) by striking the comma at the end of subparagraph (D)(iii) and inserting a period, and

(3) by striking subparagraphs (E) and (F).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes imposed after September 30, 2003.

**SEC. 2007. INCREASED FLEXIBILITY IN ALCOHOL FUELS TAX CREDIT.**

(a) ALCOHOL FUELS CREDIT MAY BE TRANSFERRED.—Section 40 (relating to alcohol used as fuel) is amended by adding at the end the following new subsection:

''(i) CREDIT MAY BE TRANSFERRED.—

''(1) IN GENERAL.—A taxpayer may transfer any credit allowable under paragraph (1) or (2) of subsection (a) with respect to alcohol used in the production of ethyl tertiary butyl ether through an assignment to a qualified assignee. Such transfer may be revoked only with the consent of the Secretary.

''(2) QUALIFIED ASSIGNEE.—For purposes of this subsection, the term 'qualified assignee' means any person who—

''(A) is liable for taxes imposed under section 4081,

''(B) is required to register under section 4101, and

''(C) obtains a certificate from the taxpayer described in paragraph (1) which identifies the amount of alcohol used in such production.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in paragraph (1) is claimed once and not reassigned by a qualified assignee.''.

(b) ALCOHOL FUELS CREDIT MAY BE TAKEN AGAINST MOTOR FUELS TAX LIABILITY.—

(1) IN GENERAL.—Subpart C of part III of subchapter A of chapter 32 (relating to special provisions applicable to petroleum products) is amended by adding at the end the following new section:

**''SEC. 4104. CREDIT AGAINST MOTOR FUELS TAXES.**

''(a) ELECTION TO USE CREDIT AGAINST MOTOR FUELS TAXES.—There is hereby allowed as a credit against the taxes imposed by section 4081, any credit allowed under paragraph (1) or (2) of section 40(a) with respect to alcohol used in the production of ethyl tertiary butyl ether to the extent—

''(1) such credit is not claimed by the taxpayer or the qualified assignee under section 40(i) as a credit under section 40, and

''(2) the taxpayer or qualified assignee elects to claim such credit under this section.

''(b) ELECTION IRREVOCABLE.—Any election under subsection (a) shall be irrevocable.

''(c) REQUIRED STATEMENT.—Any return claiming a credit pursuant to an election under this section shall be accompanied by a statement that the credit was not, and will not, be claimed on an income tax return.

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to avoid the claiming of double benefits and to prescribe the taxable periods with respect to which the credit may be claimed.''.

(2) CONFORMING AMENDMENT.—Section 40(c) is amended by striking ''or section 4091(c)'' and inserting ''section 4091(c), or section 4104''.

(3) CLERICAL AMENDMENT.—The table of sections for subpart C of part III of subchapter A of chapter 32 is amended by adding at the end the following new item:

''Sec. 4104. Credit against motor fuels taxes.''.

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

**SEC. 2008. INCENTIVES FOR BIODIESEL.**

(a) CREDIT FOR BIODIESEL USED AS A FUEL.—

(1) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by inserting after section 40A the following new section:

**''SEC. 40B. BIODIESEL USED AS FUEL.**

''(a) GENERAL RULE.—For purposes of section 38, the biodiesel fuels credit determined under this section for the taxable year is an amount equal to the biodiesel mixture credit.

''(b) DEFINITION OF BIODIESEL MIXTURE CREDIT.—For purposes of this section—

''(1) BIODIESEL MIXTURE CREDIT.—

''(A) IN GENERAL.—The biodiesel mixture credit of any taxpayer for any taxable year is the sum of the products of the biodiesel mixture rate for each qualified biodiesel mixture and the number of gallons of such mixture of the taxpayer for the taxable year.

''(B) BIODIESEL MIXTURE RATE.—For purposes of subparagraph (A), the biodiesel mixture rate for each qualified biodiesel mixture shall be—

''(i) in the case of a mixture with only biodiesel V, 1 cent for each whole percentage point (not exceeding 20 percentage points) of biodiesel V in such mixture, and

''(ii) in the case of a mixture with biodiesel NV, or a combination of biodiesel V and biodiesel NV, 0.5 cent for each whole percentage point (not exceeding 20 percentage points) of such biodiesel in such mixture.

''(2) QUALIFIED BIODIESEL MIXTURE.—

''(A) IN GENERAL.—The term 'qualified biodiesel mixture' means a mixture of diesel and biodiesel V or biodiesel NV which—

''(i) is sold by the taxpayer producing such mixture to any person for use as a fuel, or

''(ii) is used as a fuel by the taxpayer producing such mixture.

''(B) SALE OR USE MUST BE IN TRADE OR BUSINESS, ETC.—

''(i) IN GENERAL.—Biodiesel V or biodiesel NV used in the production of a qualified biodiesel mixture shall be taken into account—

''(I) only if the sale or use described in subparagraph (A) is in a trade or business of the taxpayer, and

''(II) for the taxable year in which such sale or use occurs.

''(ii) CERTIFICATION FOR BIODIESEL V.—Biodiesel V used in the production of a qualified biodiesel mixture shall be taken into account only if the taxpayer described in subparagraph (A) obtains a certification from the producer of the biodiesel V which identifies the product produced.

''(C) CASUAL OFF-FARM PRODUCTION NOT ELIGIBLE.—No credit shall be allowed under this section with respect to any casual off-farm production of a qualified biodiesel mixture.

''(c) COORDINATION WITH EXEMPTION FROM EXCISE TAX.—The amount of the credit determined under this section with respect to any biodiesel V shall, under regulations prescribed by the Secretary, be properly reduced to take into account any benefit provided with respect to such biodiesel V solely by reason of the application of section 4041(n) or section 4081(f).

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BIODIESEL V DEFINED.—The term 'biodiesel V' means the monoalkyl esters of long chain fatty acids derived solely from virgin vegetable oils for use in compressional-ignition (diesel) engines. Such term shall include esters derived from vegetable oils from corn, soybeans, sunflower seeds, cottonseeds, canola, crambe, rapeseeds, safflowers, flaxseeds, rice bran, and mustard seeds.

''(2) BIODIESEL NV DEFINED.—The term 'biodiesel nv' means the monoalkyl esters of long chain fatty acids derived from nonvirgin vegetable oils or animal fats for use in compressional-ignition (diesel) engines.

''(3) REGISTRATION REQUIREMENTS.—The terms 'biodiesel V' and 'biodiesel NV' shall only include a biodiesel which meets—

''(i) the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act (42 U.S.C. 7545), and

''(ii) the requirements of the American Society of Testing and Materials D6751.

''(2) BIODIESEL MIXTURE NOT USED AS A FUEL, ETC.—

''(A) IMPOSITION OF TAX.—If—

''(i) any credit was determined under this section with respect to biodiesel V or biodiesel NV used in the production of any qualified biodiesel mixture, and

''(ii) any person—

''(I) separates such biodiesel from the mixture, or

''(II) without separation, uses the mixture other than as a fuel,

then there is hereby imposed on such person a tax equal to the product of the biodiesel mixture rate applicable under subsection (b)(1)(B) and the number of gallons of the mixture.

''(B) APPLICABLE LAWS.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A) as if such tax were imposed by section 4081 and not by this chapter.

''(3) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

''(e) ELECTION TO HAVE BIODIESEL FUELS CREDIT NOT APPLY.—

''(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

''(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last date prescribed by law for filing the return for such taxable year (determined without regard to extensions).

''(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe.''.

''(f) TERMINATION.—This section shall not apply to any fuel sold after December 31, 2005.''.

(2) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting '', plus'', and by adding at the end the following new paragraph:

''(17) the biodiesel fuels credit determined under section 40B(a).''.

(3) CONFORMING AMENDMENTS.—

(A) Section 39(d), as amended by this Act, is amended by adding at the end the following new paragraph:

''(12) NO CARRYBACK OF BIODIESEL FUELS CREDIT BEFORE JANUARY 1, 2003.—No portion of the unused business credit for any taxable year which is attributable to the biodiesel fuels credit determined under section 40B may be carried back to a taxable year beginning before January 1, 2003.''.

(B) Section 196(c) is amended by striking ''and'' at the end of paragraph (9), by striking the period at the end of paragraph (10), and by adding at the end the following new paragraph:

''(11) the biodiesel fuels credit determined under section 40B(a).''.

(C) Section 6501(m), as amended by this Act, is amended by inserting ''40B(e),'' after ''40(f),''.

(D) The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding after the item relating to section 40A the following new item:

''Sec. 40B. Biodiesel used as fuel.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002.

(b) REDUCTION OF MOTOR FUEL EXCISE TAXES ON BIODIESEL V MIXTURES.—

(1) IN GENERAL.—Section 4081 (relating to manufacturers tax on petroleum products) is amended by adding at the end the following new subsection:

''(f) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary—

''(1) IN GENERAL.—In the case of the removal or entry of a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the otherwise applicable rate reduced by the biodiesel mixture rate (if any) applicable to the mixture.

''(2) TAX PRIOR TO MIXING.—

''(A) IN GENERAL.—In the case of the removal or entry of diesel fuel for use in producing at the time of such removal or entry a qualified biodiesel mixture with biodiesel V, the rate of tax under subsection (a) shall be the rate determined under subparagraph (B).

''(B) DETERMINATION OF RATE.—For purposes of subparagraph (A), the rate determined under this subparagraph is the rate determined under paragraph (1), divided by a percentage equal to 100 percent minus the percentage of biodiesel V which will be in the mixture.

''(3) DEFINITIONS.—For purposes of this subsection, any term used in this subsection which is also used in section 40B shall have the meaning given such term by section 40B.

''(4) CERTAIN RULES TO APPLY.—Rules similar to the rules of paragraphs (6) and (7) of subsection (c) shall apply for purposes of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 4041 is amended by adding at the end the following new subsection:

''(n) BIODIESEL V MIXTURES.—Under regulations prescribed by the Secretary, in the case of the sale or use of a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V, the rates under paragraphs (1) and (2) of subsection (a) shall be the otherwise applicable rates, reduced by any applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)).''.

(B) Section 6427 is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

''(p) BIODIESEL V MIXTURES.—Except as provided in subsection (k), if any diesel fuel on which tax was imposed by section 4081 at a rate not determined under section 4081(f) is used by any person in producing a qualified biodiesel mixture (as defined in section 40B(b)(2)) with biodiesel V which is sold or used in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the per gallon applicable biodiesel mixture rate (as defined in section 40B(b)(1)(B)) with respect to such fuel.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any fuel sold after December 31, 2002, and before January 1, 2006.

(c) HIGHWAY TRUST FUND HELD HARMLESS.—There are hereby transferred (from time to time) from the funds of the Commodity Credit Corporation amounts determined by the Secretary of the Treasury to be equivalent to the reductions that would occur (but for this subsection) in the receipts of the Highway Trust Fund by reason of the amendments made by this section.

**SEC. 2009. CREDIT FOR TAXPAYERS OWNING COMMERCIAL POWER TAKEOFF VEHICLES.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 45N. COMMERCIAL POWER TAKEOFF VEHICLES CREDIT.**

''(a) GENERAL RULE.—For purposes of section 38, the amount of the commercial power takeoff vehicles credit determined under this section for the taxable year is $250 for each qualified commercial power takeoff vehicle owned by the taxpayer as of the close of the calendar year in which or with which the taxable year of the taxpayer ends.

''(b) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED COMMERCIAL POWER TAKEOFF VEHICLE.—The term 'qualified commercial power takeoff vehicle' means any highway vehicle described in paragraph (2) which is propelled by any fuel subject to tax under section 4041 or 4081 if such vehicle is used in a trade or business or for the production of income (and is licensed and insured for such use).

''(2) HIGHWAY VEHICLE DESCRIBED.—A highway vehicle is described in this paragraph if such vehicle is—

''(A) designed to engage in the daily collection of refuse or recyclables from homes or businesses and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a load compactor, or

''(B) designed to deliver ready mixed concrete on a daily basis and is equipped with a mechanism under which the vehicle's propulsion engine provides the power to operate a mixer drum to agitate and mix the product en route to the delivery site.

''(c) EXCEPTION FOR VEHICLES USED BY GOVERNMENTS, ETC.—No credit shall be allowed under this section for any vehicle owned by any person at the close of a calendar year if such vehicle is used at any time during such year by—

''(1) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions, or

''(2) an organization exempt from tax under section 501(a).

''(d) DENIAL OF DOUBLE BENEFIT.—The amount of any deduction under this subtitle for any tax imposed by subchapter B of chapter 31 or part III of subchapter A of chapter 32 for any taxable year shall be reduced (but not below zero) by the amount of the credit determined under this subsection for such taxable year.

''(e) TERMINATION.—This section shall not apply with respect to any calendar year after 2004.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:

''(24) the commercial power takeoff vehicles credit under section 45N(a).''.

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45N. Commercial power takeoff vehicles credit.''.

(d) REGULATIONS.—Not later than January 1, 2005, the Secretary of the Treasury, in consultation with the Secretary of Energy, shall by regulation provide for the method of determining the exemption from any excise tax imposed under section 4041 or 4081 of the Internal Revenue Code of 1986 on fuel used through a mechanism to power equipment attached to a highway vehicle as described in section 45N(b)(2) of such Code, as added by subsection (a).

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2010. MODIFICATIONS TO THE INCENTIVES FOR ALTERNATIVE VEHICLES AND FUELS.**

(a) MODIFICATION TO NEW QUALIFIED HYBRID MOTOR VEHICLE CREDIT.—The table in section 30B(c)(2)(A) of the Internal Revenue Code of 1986, as added by this Act, is amended by striking ''5 percent'' and inserting ''4 percent''.

(b) MODIFICATIONS TO EXTENSION OF DEDUCTION FOR CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Subsection (f) of section 179A of the Internal Revenue Code of 1986 is amended to read as follows:

''(f) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(2) EXTENSION OF PHASEOUT.—Section 179A(b)(1)(B) of such Code, as amended by section 606(a) of the Job Creation and Worker Assistance Act of 2002, is amended—

(A) by striking ''calendar year 2004'' in clause (i) and inserting ''calendar years 2004 and 2005 (calendar years 2004 through 2009 in the case of property relating to hydrogen) '',

(B) by striking ''2005'' in clause (ii) and inserting ''2006 (calendar year 2010 in the case of property relating to hydrogen)'', and

(C) by striking ''2006'' in clause (iii) and inserting ''2007 (calendar year 2011 in the case of property relating to hydrogen)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2003, in taxable years ending after such date.

(c) MODIFICATION TO CREDIT FOR INSTALLATION OF ALTERNATIVE FUELING STATIONS.—Subsection (l) of section 30C of the Internal Revenue Code of 1986, as added by this Act, is amended to read as follows:

''(l) TERMINATION.—This section shall not apply to any property placed in service—

''(1) in the case of property relating to hydrogen, after December 31, 2011, and

''(2) in the case of any other property, after December 31, 2007.''.

(d) EFFECTIVE DATE.—Except as provided in subsection (b)(3), the amendments made by this section shall apply to property placed in service after September 30, 2002, in taxable years ending after such date.

## TITLE XXI—CONSERVATION AND ENERGY EFFICIENCY PROVISIONS

**SEC. 2101. CREDIT FOR CONSTRUCTION OF NEW ENERGY EFFICIENT HOME.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

***"SEC. 45G. NEW ENERGY EFFICIENT HOME CREDIT.***

*''(a) IN GENERAL.—For purposes of section 38, in the case of an eligible contractor, the credit determined under this section for the taxable year is an amount equal to the aggregate adjusted bases of all energy efficient property installed in a qualifying new home during construction of such home.*

*''(b) LIMITATIONS.—*

*''(1) MAXIMUM CREDIT.—*

*''(A) IN GENERAL.—The credit allowed by this section with respect to a qualifying new home shall not exceed—*

*''(i) in the case of a 30-percent home, $1,250, and*

*''(ii) in the case of a 50-percent home, $2,000.*

*''(B) 30- OR 50-PERCENT HOME.—For purposes of subparagraph (A)—*

*''(i) 30-PERCENT HOME.—The term '30-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 30 percent less than the annual level of heating and cooling energy consumption of a reference qualifying new home constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code, or a qualifying new home which is a manufactured home which meets the applicable standards of the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy.*

*''(ii) 50-PERCENT HOME.—The term '50-percent home' means a qualifying new home which is certified to have a projected level of annual heating and cooling energy consumption, measured in terms of average annual energy cost to the homeowner, which is at least 50 percent less than such annual level of heating and cooling energy consumption.*

*''(C) PRIOR CREDIT AMOUNTS ON SAME HOME TAKEN INTO ACCOUNT.—If a credit was allowed under subsection (a) with respect to a qualifying new home in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that home shall not exceed the amount under clause (i) or (ii) of subparagraph (A) (as the case may be), reduced by the sum of the credits allowed under subsection (a) with respect to the home for all prior taxable years.*

*''(2) COORDINATION WITH REHABILITATION AND ENERGY CREDITS.—For purposes of this section—*

*''(A) the basis of any property referred to in subsection (a) shall be reduced by that portion of the basis of any property which is attributable to the rehabilitation credit (as determined under section 47(a)) or to the energy percentage of energy property (as determined under section 48(a)), and*

*''(B) expenditures taken into account under either section 47 or 48(a) shall not be taken into account under this section.*

*''(c) DEFINITIONS.—For purposes of this section—*

*''(1) ELIGIBLE CONTRACTOR.—The term 'eligible contractor' means the person who constructed the qualifying new home, or in the case of a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280), the manufactured home producer of such home.*

*''(2) ENERGY EFFICIENT PROPERTY.—The term 'energy efficient property' means any energy efficient building envelope component, and any energy efficient heating or cooling equipment which can, individually or in combination with other components, meet the requirements of this section.*

*''(3) QUALIFYING NEW HOME.—The term 'qualifying new home' means a dwelling—*

*''(A) located in the United States,*

*''(B) the construction of which is substantially completed after the date of the enactment of this section, and*

*''(C) the first use of which after construction is as a principal residence (within the meaning of section 121).*

*''(4) CONSTRUCTION.—The term 'construction' includes reconstruction and rehabilitation.*

*''(5) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—*

*''(A) any insulation material or system which is specifically and primarily designed to reduce the heat loss or gain of a qualifying new home when installed in or on such home, and*

*''(B) exterior windows (including skylights) and doors.*

*''(6) MANUFACTURED HOME INCLUDED.—The term 'qualifying new home' includes a manufactured home conforming to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).*

*''(d) CERTIFICATION.—*

*''(1) METHOD OF CERTIFICATION.—*

*''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be determined either by a component-based method or a performance-based method.*

*''(B) COMPONENT-BASED METHOD.—A component-based method is a method which uses the applicable technical energy efficiency specifications or ratings (including product labeling requirements) for the energy efficient building envelope component or energy efficient heating or cooling equipment. The Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, develop prescriptive component-based packages that are equivalent in energy performance to properties that qualify under subparagraph (C).*

*''(C) PERFORMANCE-BASED METHOD.—*

*''(i) IN GENERAL.—A performance-based method is a method which calculates projected energy usage and cost reductions in the qualifying new home in relation to a reference qualifying new home—*

*''(I) heated by the same energy source and heating system type, and*

*''(II) constructed in accordance with the standards of chapter 4 of the 2000 International Energy Conservation Code.*

*''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.*

*''(2) PROVIDER.—A certification described in subsection (b)(1)(B) shall be provided by—*

*''(A) in the case of a component-based method, a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or*

*''(B) in the case of a performance-based method, an individual recognized by an organization designated by the Secretary for such purposes.*

*''(3) FORM.—*

*''(A) IN GENERAL.—A certification described in subsection (b)(1)(B) shall be made in writing in a manner that specifies in readily verifiable fashion the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their respective rated energy efficiency performance, and in the case of a performance-based method, accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such qualifying new home.*

*''(B) FORM PROVIDED TO BUYER.—A form documenting the energy efficient building envelope components and energy efficient heating or cooling equipment installed and their rated energy efficiency performance shall be provided to the buyer of the qualifying new home. The form shall include labeled R-value for insulation products, NFRC-labeled U-factor and Solar Heat Gain Coefficient for windows, skylights, and doors, labeled AFUE ratings for furnaces and boilers, labeled HSPF ratings for electric heat pumps, and labeled SEER ratings for air conditioners.*

*''(C) RATINGS LABEL AFFIXED IN DWELLING.—A permanent label documenting the ratings in subparagraph (B) shall be affixed to the front of the electrical distribution panel of the qualifying new home, or shall be otherwise permanently displayed in a readily inspectable location in such home.*

*''(4) REGULATIONS.—*

*''(A) IN GENERAL.—In prescribing regulations under this subsection for performance-based certification methods, the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—*

*''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a qualifying new home to be eligible for the credit under this section regardless of whether such home uses a gas or oil furnace or boiler or an electric heat pump, and*

*''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the homebuyer.*

*''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.*

*''(e) TERMINATION.—Subsection (a) shall apply to qualifying new homes purchased during the period beginning on the date of the enactment of this section and ending on December 31, 2007.''.*

*(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting '', plus'', and by adding at the end the following new paragraph:*

*''(18) the new energy efficient home credit determined under section 45G(a).''.*

*(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable) is amended by adding at the end the following new subsection:*

*''(d) NEW ENERGY EFFICIENT HOME EXPENSES.—No deduction shall be allowed for that portion of expenses for a qualifying new home otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for such taxable year under section 45G(a).''.*

*(d) LIMITATION ON CARRYBACK.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(13) NO CARRYBACK OF NEW ENERGY EFFICIENT HOME CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45G may be carried back to any taxable year ending on or before the date of the enactment of section 45G.''.*

*(e) DEDUCTION FOR CERTAIN UNUSED BUSINESS CREDITS.—Subsection (c) of section 196, as amended by this Act, is amended by striking ''and'' at the end of paragraph (10), by striking the period at the end of paragraph (11) and inserting '', and'', and by adding after paragraph (11) the following new paragraph:*

*''(12) the new energy efficient home credit determined under section 45G(a).''.*

*(f) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 45G. New energy efficient home credit.''.*

*(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.*

**SEC. 2102. CREDIT FOR ENERGY EFFICIENT APPLIANCES.**

*(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:*

**''SEC. 45H. ENERGY EFFICIENT APPLIANCE CREDIT.**

*''(a) GENERAL RULE.—For purposes of section 38, the energy efficient appliance credit determined under this section for the taxable year is an amount equal to the applicable amount determined under subsection (b) with respect to the eligible production of qualified energy efficient appliances produced by the taxpayer during the calendar year ending with or within the taxable year.*

*''(b) APPLICABLE AMOUNT; ELIGIBLE PRODUCTION.—For purposes of subsection (a)—*

*''(1) APPLICABLE AMOUNT.—The applicable amount is—*

*''(A) $50, in the case of—*

*''(i) a clothes washer which is manufactured with at least a 1.26 MEF, or*

*''(ii) a refrigerator which consumes at least 10 percent less kWh per year than the energy conservation standards for refrigerators promulgated by the Department of Energy effective July 1, 2001, and*

*''(B) $100, in the case of—*

*''(i) a clothes washer which is manufactured with at least a 1.42 MEF (at least 1.5 MEF for washers produced after 2004), or*

*''(ii) a refrigerator which consumes at least 15 percent less kWh per year than such energy conservation standards.*

*''(2) ELIGIBLE PRODUCTION.—*

*''(A) IN GENERAL.—The eligible production of each category of qualified energy efficient appliances is the excess of—*

*''(i) the number of appliances in such category which are produced by the taxpayer during such calendar year, over*

*''(ii) the average number of appliances in such category which were produced by the taxpayer during calendar years 1999, 2000, and 2001.*

*''(B) CATEGORIES.—For purposes of subparagraph (A), the categories are—*

*''(i) clothes washers described in paragraph (1)(A)(i),*

*''(ii) clothes washers described in paragraph (1)(B)(i),*

*''(iii) refrigerators described in paragraph (1)(A)(ii), and*

*''(iv) refrigerators described in paragraph (1)(B)(ii).*

*''(c) LIMITATION ON MAXIMUM CREDIT.—*

*''(1) IN GENERAL.—The maximum amount of credit allowed under subsection (a) with respect to a taxpayer for all taxable years shall be—*

*''(A) $30,000,000 with respect to the credit determined under subsection (b)(1)(A), and*

*''(B) $30,000,000 with respect to the credit determined under subsection (b)(1)(B).*

*''(2) LIMITATION BASED ON GROSS RECEIPTS.—The credit allowed under subsection (a) with respect to a taxpayer for the taxable year shall not exceed an amount equal to 2 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the credit is determined.*

*''(3) GROSS RECEIPTS.—For purposes of this subsection, the rules of paragraphs (2) and (3) of section 448(c) shall apply.*

*''(d) DEFINITIONS.—For purposes of this section—*

*''(1) QUALIFIED ENERGY EFFICIENT APPLIANCE.—The term 'qualified energy efficient appliance' means—*

*''(A) a clothes washer described in subparagraph (A)(i) or (B)(i) of subsection (b)(1), or*

*''(B) a refrigerator described in subparagraph (A)(ii) or (B)(ii) of subsection (b)(1).*

*''(2) CLOTHES WASHER.—The term 'clothes washer' means a residential clothes washer, including a residential style coin operated washer.*

*''(3) REFRIGERATOR.—The term 'refrigerator' means an automatic defrost refrigerator-freezer which has an internal volume of at least 16.5 cubic feet.*

*''(4) MEF.—The term 'MEF' means Modified Energy Factor (as determined by the Secretary of Energy).*

*''(e) SPECIAL RULES.—*

*''(1) IN GENERAL.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply for purposes of this section.*

*''(2) AGGREGATION RULES.—All persons treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (o) of section 414 shall be treated as 1 person for purposes of subsection (a).*

*''(f) VERIFICATION.—The taxpayer shall submit such information or certification as the Secretary, in consultation with the Secretary of Energy, determines necessary to claim the credit amount under subsection (a).*

*''(g) TERMINATION.—This section shall not apply—*

*''(1) with respect to refrigerators described in subsection (b)(1)(A)(ii) produced after December 31, 2004, and*

*''(2) with respect to all other qualified energy efficient appliances produced after December 31, 2006.''.*

*(b) LIMITATION ON CARRYBACK.—Section 39(d) (relating to transition rules), as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(14) NO CARRYBACK OF ENERGY EFFICIENT APPLIANCE CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy efficient appliance credit determined under section 45H may be carried to a taxable year ending before January 1, 2003.''.*

*(c) CONFORMING AMENDMENT.—Section 38(b) (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting '', plus'', and by adding at the end the following new paragraph:*

*''(19) the energy efficient appliance credit determined under section 45H(a).''.*

*(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 45H. Energy efficient appliance credit.''.*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to appliances produced after December 31, 2002, in taxable years ending after such date.*

**SEC. 2103. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

*(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:*

**''SEC. 25C. RESIDENTIAL ENERGY EFFICIENT PROPERTY.**

*''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—*

*''(1) 15 percent of the qualified photovoltaic property expenditures made by the taxpayer during such year,*

*''(2) 15 percent of the qualified solar water heating property expenditures made by the taxpayer during such year,*

*''(3) 30 percent of the qualified fuel cell property expenditures made by the taxpayer during such year,*

*''(4) 30 percent of the qualified wind energy property expenditures made by the taxpayer during such year, and*

*''(5) the sum of the qualified Tier 2 energy efficient building property expenditures made by the taxpayer during such year.*

*''(b) LIMITATIONS.—*

*''(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) shall not exceed—*

*''(A) $2,000 for property described in subsection (d)(1),*

*''(B) $2,000 for property described in subsection (d)(2),*

*''(C) $1,000 for each kilowatt of capacity of property described in subsection (d)(4),*

*''(D) $2,000 for property described in subsection (d)(5), and*

*''(E) for property described in subsection (d)(6)—*

*''(i) $75 for each electric heat pump water heater,*

*''(ii) $250 for each electric heat pump,*

*''(iii) $250 for each advanced natural gas furnace,*

*''(iv) $250 for each central air conditioner,*

*''(v) $75 for each natural gas water heater, and*

*''(vi) $250 for each geothermal heat pump.*

*''(2) SAFETY CERTIFICATIONS.—No credit shall be allowed under this section for an item of property unless—*

*''(A) in the case of solar water heating property, such property is certified for performance and safety by the non-profit Solar Rating Certification Corporation or a comparable entity endorsed by the government of the State in which such property is installed,*

*''(B) in the case of a photovoltaic property, a fuel cell property, or a wind energy property, such property meets appropriate fire and electric code requirements, and*

*''(C) in the case of property described in subsection (d)(6), such property meets the performance and quality standards, and the certification requirements (if any), which—*

*''(i) have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy or the Administrator of the Environmental Protection Agency, as appropriate),*

*''(ii) in the case of the energy efficiency ratio (EER)—*

*''(I) require measurements to be based on published data which is tested by manufacturers at 95 degrees Fahrenheit, and*

*''(II) do not require ratings to be based on certified data of the Air Conditioning and Refrigeration Institute, and*

*''(iii) are in effect at the time of the acquisition of the property.*

*''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.*

*''(d) DEFINITIONS.—For purposes of this section—*

*''(1) QUALIFIED SOLAR WATER HEATING PROPERTY EXPENDITURE.—The term 'qualified solar water heating property expenditure' means an expenditure for property to heat water for use in a dwelling unit located in the United States and used as a residence by the taxpayer if at least half of the energy used by such property for such purpose is derived from the sun.*

*''(2) QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE.—The term 'qualified photovoltaic property expenditure' means an expenditure for property that uses solar energy to generate electricity for use in such a dwelling unit.*

*''(3) SOLAR PANELS.—No expenditure relating to a solar panel or other property installed as a roof (or portion thereof) shall fail to be treated as property described in paragraph (1) or (2) solely because it constitutes a structural component of the structure on which it is installed.*

*''(4) QUALIFIED FUEL CELL PROPERTY EXPENDITURE.—The term 'qualified fuel cell property expenditure' means an expenditure for qualified*

*fuel cell property (as defined in section 48(a)(4)) installed on or in connection with such a dwelling unit.*

*''(5) QUALIFIED WIND ENERGY PROPERTY EXPENDITURE.—The term 'qualified wind energy property expenditure' means an expenditure for property which uses wind energy to generate electricity for use in such a dwelling unit.*

*''(6) QUALIFIED TIER 2 ENERGY EFFICIENT BUILDING PROPERTY EXPENDITURE.—*

*''(A) IN GENERAL.—The term 'qualified Tier 2 energy efficient building property expenditure' means an expenditure for any Tier 2 energy efficient building property.*

*''(B) TIER 2 ENERGY EFFICIENT BUILDING PROPERTY.—The term 'Tier 2 energy efficient building property' means—*

*''(i) an electric heat pump water heater which yields an energy factor of at least 1.7 in the standard Department of Energy test procedure,*

*''(ii) an electric heat pump which has a heating seasonal performance factor (HSPF) of at least 9, a seasonal energy efficiency ratio (SEER) of at least 15, and an energy efficiency ratio (EER) of at least 12.5,*

*''(iii) an advanced natural gas furnace which achieves at least 95 percent annual fuel utilization efficiency (AFUE),*

*''(iv) a central air conditioner which has a seasonal energy efficiency ratio (SEER) of at least 15 and an energy efficiency ratio (EER) of at least 12.5,*

*''(v) a natural gas water heater which has an energy factor of at least 0.80 in the standard Department of Energy test procedure, and*

*''(vi) a geothermal heat pump which has an energy efficiency ratio (EER) of at least 21.*

*''(7) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1), (2), (4), (5), or (6) and for piping or wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.*

*''(8) SWIMMING POOLS, ETC., USED AS STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.*

*''(e) SPECIAL RULES.—For purposes of this section—*

*''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:*

*''(A) The amount of the credit allowable, under subsection (a) by reason of expenditures (as the case may be) made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.*

*''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.*

*''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having made his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of any expenditures of such corporation.*

*''(3) CONDOMINIUMS.—*

*''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having made the individual's proportionate share of any expenditures of such association.*

*''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.*

*''(4) ALLOCATION IN CERTAIN CASES.—Except in the case of qualified wind energy property expenditures, if less than 80 percent of the use of an item is for nonbusiness purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness purposes shall be taken into account.*

*''(5) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.*

*''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.*

*''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.*

*''(6) PROPERTY FINANCED BY SUBSIDIZED ENERGY FINANCING.—For purposes of determining the amount of expenditures made by any individual with respect to any dwelling unit, there shall not be taken in to account expenditures which are made from subsidized energy financing (as defined in section 48(a)(5)(C)).*

*''(f) BASIS ADJUSTMENTS.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.*

*''(g) TERMINATION.—The credit allowed under this section shall not apply to expenditures after December 31, 2007.''.*

*(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—*

*(1) IN GENERAL.—Section 25C(b), as added by subsection (a), is amended by adding at the end the following new paragraph:*

*''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—*

*''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over*

*''(B) the sum of the credits allowable under this subpart (other than this section and section 25D) and section 27 for the taxable year.''.*

*(2) CONFORMING AMENDMENTS.—*

*(A) Section 25C(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 25D)'' and inserting ''subsection (b)(3)''.*

*(B) Section 23(b)(4)(B) is amended by inserting ''and section 25C'' after ''this section''.*

*(C) Section 24(b)(3)(B) is amended by striking ''23 and 25B'' and inserting ''23, 25B, and 25C''.*

*(D) Section 25(e)(1)(C) is amended by inserting ''25C,'' after ''25B,''.*

*(E) Section 25B(g)(2) is amended by striking ''section 23'' and inserting ''sections 23 and 25C''.*

*(F) Section 26(a)(1) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.*

*(G) Section 904(h) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.*

*(H) Section 1400C(d) is amended by striking ''and 25B'' and inserting ''25B, and 25C''.*

*(c) ADDITIONAL CONFORMING AMENDMENTS.—*

*(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, is amended by striking ''section 1400C'' and inserting ''sections 25C and 1400C''.*

*(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, is amended by inserting '', 25Cs,'' after ''sections 23''.*

*(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', and'', and by adding at the end the following new paragraph:*

*''(31) to the extent provided in section 25C(f), in the case of amounts with respect to which a credit has been allowed under section 25C.''.*

*(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, is amended by inserting ''and section 25C'' after ''this section''.*

*(5) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 25B the following new item:*

*''Sec. 25C. Residential energy efficient property.''.*

*(d) EFFECTIVE DATES.—*

*(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.*

*(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.*

***SEC. 2104. CREDIT FOR BUSINESS INSTALLATION OF QUALIFIED FUEL CELLS AND STATIONARY MICROTURBINE POWER PLANTS.***

*(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property) is amended by striking ''or'' at the end of clause (i), by adding ''or'' at the end of clause (ii), and by inserting after clause (ii) the following new clause:*

*''(iii) qualified fuel cell property or qualified microturbine property,''.*

*(b) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—Subsection (a) of section 48 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:*

*''(4) QUALIFIED FUEL CELL PROPERTY; QUALIFIED MICROTURBINE PROPERTY.—For purposes of this subsection—*

*''(A) QUALIFIED FUEL CELL PROPERTY.—*

*''(i) IN GENERAL.—The term 'qualified fuel cell property' means a fuel cell power plant that—*

*''(I) generates at least 0.5 kilowatt of electricity using an electrochemical process, and*

*''(II) has an electricity-only generation efficiency greater than 30 percent.*

*''(ii) LIMITATION.—In the case of qualified fuel cell property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—*

*''(I) 30 percent of the basis of such property, or*

*''(II) $500 for each 0.5 kilowatt of capacity of such property.*

*''(iii) FUEL CELL POWER PLANT.—The term 'fuel cell power plant' means an integrated system comprised of a fuel cell stack assembly and associated balance of plant components that converts a fuel into electricity using electrochemical means.*

*''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2007.*

*''(B) QUALIFIED MICROTURBINE PROPERTY.—*

*''(i) IN GENERAL.—The term ''qualified microturbine property' means a stationary microturbine power plant which has an electricity-only generation efficiency not less than 26 percent at International Standard Organization conditions.*

''(ii) LIMITATION.—In the case of qualified microturbine property placed in service during the taxable year, the credit determined under paragraph (1) for such year with respect to such property shall not exceed an amount equal to the lesser of—

''(I) 10 percent of the basis of such property, or

''(II) $200 for each kilowatt of capacity of such property.

''(iii) STATIONARY MICROTURBINE POWER PLANT.—The term 'stationary microturbine power plant means a system comprising of a rotary engine which is actuated by the aerodynamic reaction or impulse or both on radial or axial curved full-circumferential-admission airfoils on a central axial rotating spindle. Such system—

''(I) commonly includes an air compressor, combustor, gas pathways which lead compressed air to the combustor and which lead hot combusted gases from the combustor to 1 or more rotating turbine spools, which in turn drive the compressor and power output shaft,

''(II) includes a fuel compressor, recuperator/regenerator, generator or alternator, integrated combined cycle equipment, cooling-heating-and-power equipment, sound attenuation apparatus, and power conditioning equipment, and

''(III) includes all secondary components located between the existing infrastructure for fuel delivery and the existing infrastructure for power distribution, including equipment and controls for meeting relevant power standards, such as voltage, frequency, and power factors.

''(iv) TERMINATION.—Such term shall not include any property placed in service after December 31, 2006.''.

(c) LIMITATION.—Section 48(a)(2)(A) (relating to energy percentage) is amended to read as follows:

''(A) IN GENERAL.—The energy percentage is—

''(i) in the case of qualified fuel cell property, 30 percent, and

''(ii) in the case of any other energy property, 10 percent.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 29(b)(3)(A)(i)(III) is amended by striking ''section 48(a)(4)(C)'' and inserting ''section 48(a)(5)(C)''.

(B) Section 48(a)(1) is amended by inserting ''except as provided in subparagraph (A)(ii) or (B)(ii) of paragraph (4),'' before ''the energy''.

(e) EFFECTIVE DATE.—The amendments made by this subsection shall apply to property placed in service after December 31, 2002, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

**SEC. 2105. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new section:

**''SEC. 179B. ENERGY EFFICIENT COMMERCIAL BUILDINGS DEDUCTION.**

''(a) IN GENERAL.—There shall be allowed as a deduction for the taxable year an amount equal to the energy efficient commercial building property expenditures made by a taxpayer for the taxable year.

''(b) MAXIMUM AMOUNT OF DEDUCTION.—The amount of energy efficient commercial building property expenditures taken into account under subsection (a) shall not exceed an amount equal to the product of—

''(1) $2.25, and

''(2) the square footage of the building with respect to which the expenditures are made.

''(c) YEAR DEDUCTION ALLOWED.—The deduction under subsection (a) shall be allowed in the taxable year in which the construction of the building is completed.

''(d) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY EXPENDITURES.—For purposes of this section—

''(1) IN GENERAL.—The term 'energy efficient commercial building property expenditures' means an amount paid or incurred for energy efficient commercial building property installed on or in connection with new construction or reconstruction of property—

''(A) for which depreciation is allowable under section 167,

''(B) which is located in the United States, and

''(C) the construction or erection of which is completed by the taxpayer.

Such property includes all residential rental property, including low-rise multifamily structures and single family housing property which is not within the scope of Standard 90.1–1999 (described in paragraph (2)). Such term includes expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property.

''(2) ENERGY EFFICIENT COMMERCIAL BUILDING PROPERTY.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'energy efficient commercial building property' means any property which reduces total annual energy and power costs with respect to the lighting, heating, cooling, ventilation, and hot water supply systems of the building by 50 percent or more in comparison to a reference building which meets the requirements of Standard 90.1–1999 of the American Society of Heating, Refrigerating, and Air Conditioning Engineers and the Illuminating Engineering Society of North America using methods of calculation under subparagraph (B) and certified by qualified professionals as provided under paragraph (5).

''(B) METHODS OF CALCULATION.—The Secretary, in consultation with the Secretary of Energy, shall promulgate regulations which describe in detail methods for calculating and verifying energy and power consumption and cost, taking into consideration the provisions of the 2001 California Nonresidential Alternative Calculation Method Approval Manual. These regulations shall meet the following requirements:

''(i) In calculating tradeoffs and energy performance, the regulations shall prescribe the costs per unit of energy and power, such as kilowatt hour, kilowatt, gallon of fuel oil, and cubic foot or Btu of natural gas, which may be dependent on time of usage.

''(ii) The calculational methodology shall require that compliance be demonstrated for a whole building. If some systems of the building, such as lighting, are designed later than other systems of the building, the method shall provide that either—

''(I) the expenses taken into account under paragraph (1) shall not occur until the date designs for all energy-using systems of the building are completed,

''(II) the energy performance of all systems and components not yet designed shall be assumed to comply minimally with the requirements of such Standard 90.1–1999, or

''(III) the expenses taken into account under paragraph (1) shall be a fraction of such expenses based on the performance of less than all energy-using systems in accordance with clause (iii).

''(iii) The expenditures in connection with the design of subsystems in the building, such as the envelope, the heating, ventilation, air conditioning and water heating system, and the lighting system shall be allocated to the appropriate building subsystem based on system-specific energy cost savings targets in regulations promulgated by the Secretary of Energy which are equivalent, using the calculation methodology, to the whole building requirement of 50 percent savings.

''(iv) The calculational methods under this subparagraph need not comply fully with section 11 of such Standard 90.1–1999.

''(v) The calculational methods shall be fuel neutral, such that the same energy efficiency features shall qualify a building for the deduction under this subsection regardless of whether the heating source is a gas or oil furnace or an electric heat pump.

''(vi) The calculational methods shall provide appropriate calculated energy savings for design methods and technologies not otherwise credited in either such Standard 90.1–1999 or in the 2001 California Nonresidential Alternative Calculation Method Approval Manual, including the following:

''(I) Natural ventilation.

''(II) Evaporative cooling.

''(III) Automatic lighting controls such as occupancy sensors, photocells, and timeclocks.

''(IV) Daylighting.

''(V) Designs utilizing semi-conditioned spaces that maintain adequate comfort conditions without air conditioning or without heating.

''(VI) Improved fan system efficiency, including reductions in static pressure.

''(VII) Advanced unloading mechanisms for mechanical cooling, such as multiple or variable speed compressors.

''(VIII) The calculational methods may take into account the extent of commissioning in the building, and allow the taxpayer to take into account measured performance that exceeds typical performance.

''(C) COMPUTER SOFTWARE.—

''(i) IN GENERAL.—Any calculation under this paragraph shall be prepared by qualified computer software.

''(ii) QUALIFIED COMPUTER SOFTWARE.—For purposes of this subparagraph, the term 'qualified computer software' means software—

''(I) for which the software designer has certified that the software meets all procedures and detailed methods for calculating energy and power consumption and costs as required by the Secretary,

''(II) which provides such forms as required to be filed by the Secretary in connection with energy efficiency of property and the deduction allowed under this subsection, and

''(III) which provides a notice form which summarizes the energy efficiency features of the building and its projected annual energy costs.

''(3) ALLOCATION OF DEDUCTION FOR PUBLIC PROPERTY.—In the case of energy efficient commercial building property installed on or in public property, the Secretary shall promulgate a regulation to allow the allocation of the deduction to the person primarily responsible for designing the property in lieu of the public entity which is the owner of such property. Such person shall be treated as the taxpayer for purposes of this subsection.

''(4) NOTICE TO OWNER.—The qualified individual shall provide an explanation to the owner of the building regarding the energy efficiency features of the building and its projected annual energy costs as provided in the notice under paragraph (2)(C)(ii)(III).

''(5) CERTIFICATION.—

''(A) IN GENERAL.—Except as provided in this paragraph, the Secretary shall prescribe procedures for the inspection and testing for compliance of buildings that are comparable, given the difference between commercial and residential buildings, to the requirements in the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(B) QUALIFIED INDIVIDUALS.—Individuals qualified to determine compliance shall be only those individuals who are recognized by an organization certified by the Secretary for such purposes. The Secretary may qualify a Home Ratings Systems Organization, a local building code agency, a State or local energy office, a utility, or any other organization which meets the requirements prescribed under this section.

''(C) PROFICIENCY OF QUALIFIED INDIVIDUALS.—The Secretary shall consult with nonprofit organizations and State agencies with expertise in energy efficiency calculations and inspections to develop proficiency tests and training programs to qualify individuals to determine compliance.

''(e) BASIS REDUCTION.—For purposes of this subtitle, if a deduction is allowed under this section with respect to any energy efficient commercial building property, the basis of such property shall be reduced by the amount of the deduction so allowed.

''(f) REGULATIONS.—The Secretary shall promulgate such regulations as necessary to take into account new technologies regarding energy efficiency and renewable energy for purposes of determining energy efficiency and savings under this section.

''(g) TERMINATION.—This section shall not apply with respect to any energy efficient commercial building property expenditures in connection with property—

''(1) the plans for which are not certified under subsection (d)(5) on or before December 31, 2007, and

''(2) the construction of which is not completed on or before December 31, 2009.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting '', and'', and by adding at the end the following new paragraph:

''(32) to the extent provided in section 179B(e).''.

(2) Section 1245(a) is amended by inserting ''179B,'' after ''179A,'' both places it appears in paragraphs (2)(C) and (3)(C).

(3) Section 1250(b)(3) is amended by inserting before the period at the end of the first sentence ''or by section 179B''.

(4) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by inserting after subparagraph (H) the following new subparagraph:

''(I) expenditures for which a deduction is allowed under section 179B.''.

(5) Section 312(k)(3)(B) is amended by striking ''or 179A'' each place it appears in the heading and text and inserting '', 179A, or 179B''.

(c) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after section 179A the following new item:

''Sec. 179B. Energy efficient commercial buildings deduction.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2002.

**SEC. 2106. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179B the following new section:

**''SEC. 179C. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED ENERGY MANAGEMENT DEVICES.**

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services, there shall be allowed as a deduction an amount equal to the cost of each qualified energy management device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified energy management device shall not exceed $30.

''(c) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any tangible property to which section 168 applies if such property is a meter or metering device—

''(1) which is acquired and used by the taxpayer to enable consumers to manage their purchase or use of electricity or natural gas in response to energy price and usage signals, and

''(2) which permits reading of energy price and usage signals on at least a daily basis.

''(d) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(e) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (H), by striking the period at the end of subparagraph (I) and inserting '', or'', and by inserting after subparagraph (I) the following new subparagraph:

''(J) expenditures for which a deduction is allowed under section 179C.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179B'' each place it appears in the heading and text and inserting '', 179B, or 179C''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (31), by striking the period at the end of paragraph (32) and inserting '', and'', and by adding at the end the following new paragraph:

''(33) to the extent provided in section 179C(e)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179C,'' after ''179B,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179B the following new item:

''Sec. 179C. Deduction for qualified new or retrofitted energy management devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified energy management devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2107. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED ENERGY MANAGEMENT DEVICES.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:

''(iv) any qualified energy management device.''.

(b) DEFINITION OF QUALIFIED ENERGY MANAGEMENT DEVICE.—Section 168(i) (relating to definitions and special rules) is amended by inserting at the end the following new paragraph:

''(15) QUALIFIED ENERGY MANAGEMENT DEVICE.—The term 'qualified energy management device' means any qualified energy management device as defined in section 179C(c) which is placed in service by a taxpayer who is a supplier of electric energy or natural gas or a provider of electric energy or natural gas services.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2108. ENERGY CREDIT FOR COMBINED HEAT AND POWER SYSTEM PROPERTY.**

(a) IN GENERAL.—Subparagraph (A) of section 48(a)(3) (defining energy property), as amended by this Act, is amended by striking ''or'' at the end of clause (ii), by adding ''or'' at the end of clause (iii), and by inserting after clause (iii) the following new clause:

''(iv) combined heat and power system property,''.

(b) COMBINED HEAT AND POWER SYSTEM PROPERTY.—Subsection (a) of section 48, as amended by this Act, is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) COMBINED HEAT AND POWER SYSTEM PROPERTY.—For purposes of this subsection—

''(A) COMBINED HEAT AND POWER SYSTEM PROPERTY.—The term 'combined heat and power system property' means property comprising a system—

''(i) which uses the same energy source for the simultaneous or sequential generation of electrical power, mechanical shaft power, or both, in combination with the generation of steam or other forms of useful thermal energy (including heating and cooling applications),

''(ii) which has an electrical capacity of more than 50 kilowatts or a mechanical energy capacity of more than 67 horsepower or an equivalent combination of electrical and mechanical energy capacities,

''(iii) which produces—

''(I) at least 20 percent of its total useful energy in the form of thermal energy, and

''(II) at least 20 percent of its total useful energy in the form of electrical or mechanical power (or combination thereof),

''(iv) the energy efficiency percentage of which exceeds 60 percent (70 percent in the case of a system with an electrical capacity in excess of 50 megawatts or a mechanical energy capacity in excess of 67,000 horsepower, or an equivalent combination of electrical and mechanical energy capacities), and

''(v) which is placed in service after December 31, 2002, and before January 1, 2007.

''(B) SPECIAL RULES.—

''(i) ENERGY EFFICIENCY PERCENTAGE.—For purposes of subparagraph (A)(iv), the energy efficiency percentage of a system is the fraction—

''(I) the numerator of which is the total useful electrical, thermal, and mechanical power produced by the system at normal operating rates, and expected to be consumed in its normal application, and

''(II) the denominator of which is the lower heating value of the primary fuel source for the system.

''(ii) DETERMINATIONS MADE ON BTU BASIS.—The energy efficiency percentage and the percentages under subparagraph (A)(iii) shall be determined on a Btu basis.

''(iii) INPUT AND OUTPUT PROPERTY NOT INCLUDED.—The term 'combined heat and power system property' does not include property used to transport the energy source to the facility or to distribute energy produced by the facility.

''(iv) PUBLIC UTILITY PROPERTY.—

''(I) ACCOUNTING RULE FOR PUBLIC UTILITY PROPERTY.—If the combined heat and power system property is public utility property (as defined in section 168(i)(10)), the taxpayer may only claim the credit under the subsection if, with respect to such property, the taxpayer uses a normalization method of accounting.

''(II) CERTAIN EXCEPTION NOT TO APPLY.—The matter following paragraph (3)(D) shall not apply to combined heat and power system property.

''(v) NONAPPLICATION OF CERTAIN RULES.—For purposes of determining if the term 'combined heat and power system property' includes technologies which generate electricity or mechanical power using back-pressure steam turbines in place of existing pressure-reducing valves or which make use of waste heat from industrial processes such as by using organic rankin, stirling, or kalina heat engine systems, subparagraph (A) shall be applied without regard to clauses (iii) and (iv) thereof.

''(C) EXTENSION OF DEPRECIATION RECOVERY PERIOD.—If a taxpayer is allowed credit under this section for combined heat and power system property and such property would (but for this subparagraph) have a class life of 15 years or less under section 168, such property shall be treated as having a 22-year class life for purposes of section 168.''.

(c) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:

''(15) NO CARRYBACK OF ENERGY CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the energy credit with respect to property described in section 48(a)(5) may be carried back to a taxable year ending before January 1, 2003.''.

(d) CONFORMING AMENDMENTS.—

(A) Section 25C(e)(6), as added by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(B) Section 29(b)(3)(A)(i)(III), as amended by this Act, is amended by striking ''section 48(a)(5)(C)'' and inserting ''section 48(a)(6)(C)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2002, in taxable years ending after such date.

**SEC. 2109. CREDIT FOR ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by this Act, is amended by inserting after section 25C the following new section:

**''SEC. 25D. ENERGY EFFICIENCY IMPROVEMENTS TO EXISTING HOMES.**

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the amount paid or incurred by the taxpayer for qualified energy efficiency improvements installed during such taxable year.

''(b) LIMITATIONS.—

''(1) MAXIMUM CREDIT.—The credit allowed by this section with respect to a dwelling shall not exceed $300.

''(2) PRIOR CREDIT AMOUNTS FOR TAXPAYER ON SAME DWELLING TAKEN INTO ACCOUNT.—If a credit was allowed to the taxpayer under subsection (a) with respect to a dwelling in 1 or more prior taxable years, the amount of the credit otherwise allowable for the taxable year with respect to that dwelling shall not exceed the amount of $300 reduced by the sum of the credits allowed under subsection (a) to the taxpayer with respect to the dwelling for all prior taxable years.

''(c) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section) for any taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such succeeding taxable year.

''(d) QUALIFIED ENERGY EFFICIENCY IMPROVEMENTS.—For purposes of this section, the term 'qualified energy efficiency improvements' means any energy efficient building envelope component which is certified to meet or exceed the prescriptive criteria for such component in the 2000 International Energy Conservation Code, any energy efficient building envelope component which is described in subsection (f)(4)(B) and is certified by the Energy Star program managed jointly by the Environmental Protection Agency and the Department of Energy, or any combination of energy efficiency measures which are certified as achieving at least a 30 percent reduction in heating and cooling energy usage for the dwelling (as measured in terms of energy cost to the taxpayer), if—

''(1) such component or combination of measures is installed in or on a dwelling—

''(A) located in the United States, and

''(B) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(2) the original use of such component or combination of measures commences with the taxpayer, and

''(3) such component or combination of measures reasonably can be expected to remain in use for at least 5 years.

''(e) CERTIFICATION.—

''(1) METHODS OF CERTIFICATION.—

''(A) COMPONENT-BASED METHOD.—The certification described in subsection (d) for any component described in such subsection shall be determined on the basis of applicable energy efficiency ratings (including product labeling requirements) for affected building envelope components.

''(B) PERFORMANCE-BASED METHOD.—

''(i) IN GENERAL.—The certification described in subsection (d) for any combination of measures described in such subsection shall be—

''(I) determined by comparing the projected heating and cooling energy usage for the dwelling to such usage for such dwelling in its original condition, and

''(II) accompanied by a written analysis documenting the proper application of a permissible energy performance calculation method to the specific circumstances of such dwelling.

''(ii) COMPUTER SOFTWARE.—Computer software shall be used in support of a performance-based method certification under clause (i). Such software shall meet procedures and methods for calculating energy and cost savings in regulations promulgated by the Secretary of Energy. Such regulations on the specifications for software and verification protocols shall be based on the 2001 California Residential Alternative Calculation Method Approval Manual.

''(2) PROVIDER.—A certification described in subsection (d) shall be provided by—

''(A) in the case of the method described in paragraph (1)(A), by a third party, such as a local building regulatory authority, a utility, a manufactured home production inspection primary inspection agency (IPIA), or a home energy rating organization, or

''(B) in the case of the method described in paragraph (1)(B), an individual recognized by an organization designated by the Secretary for such purposes.

''(3) FORM.—A certification described in subsection (d) shall be made in writing on forms which specify in readily inspectable fashion the energy efficient components and other measures and their respective efficiency ratings, and which include a permanent label affixed to the electrical distribution panel of the dwelling.

''(4) REGULATIONS.—

''(A) IN GENERAL.—In prescribing regulations under this subsection for certification methods described in paragraph (1)(B), the Secretary, after examining the requirements for energy consultants and home energy ratings providers specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems, shall prescribe procedures for calculating annual energy usage and cost reductions for heating and cooling and for the reporting of the results. Such regulations shall—

''(i) provide that any calculation procedures be fuel neutral such that the same energy efficiency measures allow a dwelling to be eligible for the credit under this section regardless of whether such dwelling uses a gas or oil furnace or boiler or an electric heat pump, and

''(ii) require that any computer software allow for the printing of the Federal tax forms necessary for the credit under this section and for the printing of forms for disclosure to the owner of the dwelling.

''(B) PROVIDERS.—For purposes of paragraph (2)(B), the Secretary shall establish requirements for the designation of individuals based on the requirements for energy consultants and home energy raters specified by the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems.

''(f) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for the qualified energy efficiency improvements made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1 taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable, with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(2) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified energy efficiency improvements made by such corporation.

''(3) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium management association with respect to a condominium which the individual owns, such individual shall be treated as having paid the individual's proportionate share of the cost of qualified energy efficiency improvements made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(4) BUILDING ENVELOPE COMPONENT.—The term 'building envelope component' means—

''(A) insulation material or system which is specifically and primarily designed to reduce the heat loss or gain or a dwelling when installed in or on such dwelling,

''(B) exterior windows (including skylights), and

''(C) exterior doors.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(g) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.

''(h) APPLICATION OF SECTION.—Subsection (a) shall apply to qualified energy efficiency improvements installed during the period beginning on the date of the enactment of this section and ending on December 31, 2006.''.

(b) CREDIT ALLOWED AGAINST REGULAR TAX AND ALTERNATIVE MINIMUM TAX.—

(1) IN GENERAL.—Section 25D(b), as added by subsection (a), is amended by adding at the end the following new paragraph:

''(3) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 25D(c), as added by subsection (a), is amended by striking ''section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section)'' and inserting ''subsection (b)(3)''.

(B) Section 23(b)(4)(B), as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(C) Section 24(b)(3)(B), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(D) Section 25(e)(1)(C), as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(E) Section 25B(g)(2), as amended by this Act, is amended by striking ''23 and 25C'' and inserting ''23, 25C, and 25D''.

(F) Section 26(a)(1), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(G) Section 904(h), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(H) Section 1400C(d), as amended by this Act, is amended by striking ''and 25C'' and inserting ''25C, and 25D''.

(c) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 23(c), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting '', 25D,'' after ''sections 25C''.

(2) Section 25(e)(1)(C), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by inserting ''25D,'' after ''25C,''.

(3) Subsection (a) of section 1016, as amended by this Act, is amended by striking ''and'' at the end of paragraph (32), by striking the period at the end of paragraph (33) and inserting ''; and'', and by adding at the end the following new paragraph:

''(34) to the extent provided in section 25D(f), in the case of amounts with respect to which a credit has been allowed under section 25D.''.

(4) Section 1400C(d), as in effect for taxable years beginning before January 1, 2004, and as amended by this Act, is amended by striking ''section 25C'' and inserting ''sections 25C and 25D''.

(5) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 25C the following new item:

''Sec. 25D. Energy efficiency improvements to existing homes.''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to expenditures after December 31, 2002, in taxable years ending after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 2003.

**SEC. 2110. ALLOWANCE OF DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179D the following new section:

**''SEC. 179E. DEDUCTION FOR QUALIFIED NEW OR RETROFITTED WATER SUBMETERING DEVICES.**

''(a) ALLOWANCE OF DEDUCTION.—In the case of a taxpayer who is an eligible resupplier, there shall be allowed as a deduction an amount equal to the cost of each qualified water submetering device placed in service during the taxable year.

''(b) MAXIMUM DEDUCTION.—The deduction allowed by this section with respect to each qualified water submetering device shall not exceed $30.

''(c) ELIGIBLE RESUPPLIER.—For purposes of this section, the term 'eligible resupplier' means any taxpayer who purchases and installs qualified water submetering devices in every unit in any multi-unit property.

''(d) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any tangible property to which section 168 applies if such property is a submetering device (including ancillary equipment)—

''(1) which is purchased and installed by the taxpayer to enable consumers to manage their purchase or use of water in response to water price and usage signals, and

''(2) which permits reading of water price and usage signals on at least a daily basis.

''(e) PROPERTY USED OUTSIDE THE UNITED STATES NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to property which is used predominantly outside the United States or with respect to the portion of the cost of any property taken into account under section 179.

''(f) BASIS REDUCTION.—

''(1) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the amount of the deduction with respect to such property which is allowed by subsection (a).

''(2) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property that is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

''(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2007.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179D'' each place it appears in the heading and text and inserting '', 179D, or 179E''.

(3) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (34), by striking the period at the end of paragraph (35) and inserting '', and'', and by adding at the end the following new paragraph:

''(36) to the extent provided in section 179E(f)(1).''.

(4) Section 1245(a), as amended by this Act, is amended by inserting ''179E,'' after ''179D,'' both places it appears in paragraphs (2)(C) and (3)(C).

(5) The table of contents for subpart B of part IV of subchapter A of chapter 1, as amended by this Act, is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Deduction for qualified new or retrofitted water submetering devices.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified water submetering devices placed in service after the date of the enactment of this Act, in taxable years ending after such date.

**SEC. 2111. THREE-YEAR APPLICABLE RECOVERY PERIOD FOR DEPRECIATION OF QUALIFIED WATER SUBMETERING DEVICES.**

(a) IN GENERAL.—Subparagraph (A) of section 168(e)(3) (relating to classification of property) is amended by striking ''and'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', and'', and by adding at the end the following new clause:

''(v) any qualified water submetering device.''.

(b) DEFINITION OF QUALIFIED WATER SUBMETERING DEVICE.—Section 168(i) (relating to definitions and special rules), as amended by this Act, is amended by inserting at the end the following new paragraph:

''(16) QUALIFIED WATER SUBMETERING DEVICE.—The term 'qualified water submetering device' means any qualified water submetering device (as defined in section 179E(d)) which is placed in service before January 1, 2008, by a taxpayer who is an eligible resupplier (as defined in section 179E(c)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.

## TITLE XXII—CLEAN COAL INCENTIVES

### Subtitle A—Credit for Emission Reductions and Efficiency Improvements in Existing Coal-Based Electricity Generation Facilities

**SEC. 2201. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.**

(a) CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 45I. CREDIT FOR PRODUCTION FROM A QUALIFYING CLEAN COAL TECHNOLOGY UNIT.**

''(a) GENERAL RULE.—For purposes of section 38, the qualifying clean coal technology production credit of any taxpayer for any taxable year is equal to the product of—

''(1) the applicable amount of clean coal technology production credit, multiplied by

''(2) the applicable percentage of the kilowatt hours of electricity produced by the taxpayer during such taxable year at a qualifying clean coal technology unit, but only if such production occurs during the 10-year period beginning on the date the unit was returned to service after becoming a qualifying clean coal technology unit.

''(b) APPLICABLE AMOUNT.—

''(1) IN GENERAL.—For purposes of this section, the applicable amount of clean coal technology production credit is equal to $0.0034.

''(2) INFLATION ADJUSTMENT.—For calendar years after 2003, the applicable amount of clean coal technology production credit shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (e) bears to the total megawatt capacity of such unit.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) QUALIFYING CLEAN COAL TECHNOLOGY UNIT.—The term 'qualifying clean coal technology unit' means a clean coal technology unit of the taxpayer which—

''(A) on the date of the enactment of this section was a coal-based electricity generating steam generator-turbine unit which was not a clean coal technology unit,

''(B) has a nameplate capacity rating of not more than 300,000 kilowatts,

''(C) becomes a clean coal technology unit as the result of the retrofitting, repowering, or replacement of the unit with clean coal technology during the 10-year period beginning on the date of the enactment of this section,

''(D) is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy, and

''(E) receives an allocation of a portion of the national megawatt capacity limitation under subsection (e).

''(2) CLEAN COAL TECHNOLOGY UNIT.—The term 'clean coal technology unit' means a unit which—

''(A) uses clean coal technology, including advanced pulverized coal or atmospheric fluidized bed combustion, pressurized fluidized bed combustion, integrated gasification combined cycle, or any other technology for the production of electricity,

''(B) uses coal to produce 75 percent or more of its thermal output as electricity,

''(C) has a design net heat rate of at least 500 less than that of such unit as described in paragraph (1)(A),

''(D) has a maximum design net heat rate of not more than 9,500, and

''(E) meets the pollution control requirements of paragraph (3).

''(3) POLLUTION CONTROL REQUIREMENTS.—

''(A) IN GENERAL.—A unit meets the requirements of this paragraph if—

''(i) its emissions of sulfur dioxide, nitrogen oxide, or particulates meet the lower of the emission levels for each such emission specified in—

''(I) subparagraph (B), or

''(II) the new source performance standards of the Clean Air Act (42 U.S.C. 7411) which are in effect for the category of source at the time of the retrofitting, repowering, or replacement of the unit, and

''(ii) its emissions do not exceed any relevant emission level specified by regulation pursuant to the hazardous air pollutant requirements of the Clean Air Act (42 U.S.C. 7412) in effect at the time of the retrofitting, repowering, or replacement.

''(B) SPECIFIC LEVELS.—The levels specified in this subparagraph are—

''(i) in the case of sulfur dioxide emissions, 50 percent of the sulfur dioxide emission levels specified in the new source performance standards of the Clean Air Act (42 U.S.C. 7411) in effect on the date of the enactment of this section for the category of source,

''(ii) in the case of nitrogen oxide emissions—

''(I) 0.1 pound per million Btu of heat input if the unit is not a cyclone-fired boiler, and

''(II) if the unit is a cyclone-fired boiler, 15 percent of the uncontrolled nitrogen oxide emissions from such boilers, and

''(iii) in the case of particulate emissions, 0.02 pound per million Btu of heat input.

''(4) DESIGN NET HEAT RATE.—The design net heat rate with respect to any unit, measured in Btu per kilowatt hour (HHV)—

''(A) shall be based on the design annual heat input to and the design annual net electrical output from such unit (determined without regard to such unit's co-generation of steam),

''(B) shall be adjusted for the heat content of the design coal to be used by the unit if it is less than 12,000 Btu per pound according to the following formula:

Design net heat rate = Unit net heat rate × [1-{((12,000-design coal heat content, Btu per pound)/1,000) × 0.013}], and

''(C) shall be corrected for the site reference conditions of—

''(i) elevation above sea level of 500 feet,

''(ii) air pressure of 14.4 pounds per square inch absolute (psia),

''(iii) temperature, dry bulb of 63°F,

''(iv) temperature, wet bulb of 54°F, and

''(v) relative humidity of 55 percent.

''(5) HHV.—The term 'HHV' means higher heating value.

''(6) APPLICATION OF CERTAIN RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.

''(7) INFLATION ADJUSTMENT FACTOR.—

''(A) IN GENERAL.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 2002.

''(B) GDP IMPLICIT PRICE DEFLATOR.—The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed by the Department of Commerce before March 15 of the calendar year.

''(8) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this section, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying clean coal technology unit during such period.

''(e) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF QUALIFYING CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (d)(1)(E), the national megawatt capacity limitation for qualifying clean coal technology units is 4,000 megawatts.

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection,

''(B) to limit the capacity of any qualifying clean coal technology unit to which this section applies so that the combined megawatt capacity allocated to all such units under this subsection when all such units are placed in service during the 10-year period described in subsection (d)(1)(C), does not exceed 4,000 megawatts,

''(C) to provide a certification process under which the Secretary, in consultation with the Secretary of Energy, shall approve and allocate the national megawatt capacity limitation—

''(i) to encourage that units with the highest thermal efficiencies, when adjusted for the heat content of the design coal and site reference conditions described in subsection (d)(4)(C), and environmental performance be placed in service as soon as possible,

''(ii) to allocate capacity to taxpayers that have a definite and credible plan for placing into commercial operation a qualifying clean coal technology unit, including—

''(I) a site,

''(II) contractual commitments for procurement and construction or, in the case of regulated utilities, the agreement of the State utility commission,

''(III) filings for all necessary preconstruction approvals,

''(IV) a demonstrated record of having successfully completed comparable projects on a timely basis, and

''(V) such other factors that the Secretary determines are appropriate,

''(D) to allocate the national megawatt capacity limitation to a portion of the capacity of a qualifying clean coal technology unit if the Secretary determines that such an allocation would maximize the amount of efficient production encouraged with the available tax credits,

''(E) to set progress requirements and conditional approvals so that capacity allocations for clean coal technology units that become unlikely to meet the necessary conditions for qualifying can be reallocated by the Secretary to other clean coal technology units, and

''(F) to provide taxpayers with opportunities to correct administrative errors and omissions with respect to allocations and record keeping within a reasonable period after discovery, taking into account the availability of regulations and other administrative guidance from the Secretary.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting '', plus'', and by adding at the end the following new paragraph:

''(20) the qualifying clean coal technology production credit determined under section 45I(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(16) NO CARRYBACK OF SECTION 45I CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying clean coal technology production credit determined under section 45I may be carried back to a taxable year ending on or before the date of the enactment of section 45I.''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45I. Credit for production from a qualifying clean coal technology unit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

**Subtitle B—Incentives for Early Commercial Applications of Advanced Clean Coal Technologies**

**SEC. 2211. CREDIT FOR INVESTMENT IN QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY.**

(a) ALLOWANCE OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Section 46 (relating to amount of credit) is amended by striking ''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following new paragraph:

''(4) the qualifying advanced clean coal technology unit credit.''.

(b) AMOUNT OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.—Subpart E of part IV of subchapter A of chapter 1 (relating to rules for computing investment credit) is amended by inserting after section 48 the following new section:

**''SEC. 48A. QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT CREDIT.**

''(a) IN GENERAL.—For purposes of section 46, the qualifying advanced clean coal technology unit credit for any taxable year is an amount equal to 10 percent of the applicable percentage of the qualified investment in a qualifying advanced clean coal technology unit for such taxable year.

''(b) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—

''(1) IN GENERAL.—For purposes of subsection (a), the term 'qualifying advanced clean coal technology unit' means an advanced clean coal technology unit of the taxpayer—

''(A)(i)(I) in the case of a unit first placed in service after the date of the enactment of this section, the original use of which commences with the taxpayer, or

''(II) in the case of the retrofitting or repowering of a unit first placed in service before such date of enactment, the retrofitting or repowering of which is completed by the taxpayer after such date, or

''(ii) which is acquired through purchase (as defined by section 179(d)(2)),

''(B) which is depreciable under section 167,

''(C) which has a useful life of not less than 4 years,

''(D) which is located in the United States,

''(E) which is not receiving nor is scheduled to receive funding under the Clean Coal Technology Program, the Power Plant Improvement Initiative, or the Clean Coal Power Initiative administered by the Secretary of Energy,

''(F) which is not a qualifying clean coal technology unit, and

''(G) which receives an allocation of a portion of the national megawatt capacity limitation under subsection (f).

''(2) SPECIAL RULE FOR SALE-LEASEBACKS.—For purposes of subparagraph (A) of paragraph (1), in the case of a unit which—

''(A) is originally placed in service by a person, and

''(B) is sold and leased back by such person, or is leased to such person, within 3 months after the date such unit was originally placed in service, for a period of not less than 12 years,

such unit shall be treated as originally placed in service not earlier than the date on which such unit is used under the leaseback (or lease) referred to in subparagraph (B). The preceding sentence shall not apply to any property if the lessee and lessor of such property make an election under this sentence. Such an election, once made, may be revoked only with the consent of the Secretary.

''(3) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of this subsection, a unit which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualifying advanced clean coal technology unit during such period.

''(c) APPLICABLE PERCENTAGE.—For purposes of this section, with respect to any qualifying advanced clean coal technology unit, the applicable percentage is the percentage equal to the ratio which the portion of the national megawatt capacity limitation allocated to the taxpayer with respect to such unit under subsection (f) bears to the total megawatt capacity of such unit.

''(d) ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of this section—

''(1) IN GENERAL.—The term 'advanced clean coal technology unit' means a new, retrofit, or repowering unit of the taxpayer which—

''(A) is—

''(i) an eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit,

''(ii) an eligible pressurized fluidized bed combustion technology unit,

''(iii) an eligible integrated gasification combined cycle technology unit, or

''(iv) an eligible other technology unit, and

''(B) meets the carbon emission rate requirements of paragraph (6).

''(2) ELIGIBLE ADVANCED PULVERIZED COAL OR ATMOSPHERIC FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible advanced pulverized coal or atmospheric fluidized bed combustion technology unit' means a clean coal technology unit using advanced pulverized coal or atmospheric fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2013, and

''(B) has a design net heat rate of not more than 8,350 (8,750 in the case of units placed in service before 2009).

''(3) ELIGIBLE PRESSURIZED FLUIDIZED BED COMBUSTION TECHNOLOGY UNIT.—The term 'eligible pressurized fluidized bed combustion technology unit' means a clean coal technology unit using pressurized fluidized bed combustion technology which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017, and

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013).

''(4) ELIGIBLE INTEGRATED GASIFICATION COMBINED CYCLE TECHNOLOGY UNIT.—The term 'eligible integrated gasification combined cycle technology unit' means a clean coal technology unit using integrated gasification combined cycle technology, with or without fuel or chemical co-production, which—

''(A) is placed in service after the date of the enactment of this section and before January 1, 2017,

''(B) has a design net heat rate of not more than 7,720 (8,750 in the case of units placed in service before 2009, and 8,350 in the case of units placed in service after 2008 and before 2013), and

''(C) has a net thermal efficiency (HHV) using coal with fuel or chemical co-production of not less than 43.9 percent (39 percent in the case of units placed in service before 2009, and 40.9 percent in the case of units placed in service after 2008 and before 2013).

''(5) ELIGIBLE OTHER TECHNOLOGY UNIT.—The term 'eligible other technology unit' means a clean coal technology unit using any other technology for the production of electricity which is placed in service after the date of the enactment of this section and before January 1, 2017.

''(6) CARBON EMISSION RATE REQUIREMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a unit meets the requirements of this paragraph if—

''(i) in the case of a unit using design coal with a heat content of not more than 9,000 Btu per pound, the carbon emission rate is less than 0.60 pound of carbon per kilowatt hour, and

''(ii) in the case of a unit using design coal with a heat content of more than 9,000 Btu per pound, the carbon emission rate is less than 0.54 pound of carbon per kilowatt hour.

''(B) ELIGIBLE OTHER TECHNOLOGY UNIT.—In the case of an eligible other technology unit, subparagraph (A) shall be applied by substituting '0.51' and '0.459' for '0.60' and '0.54', respectively.

''(e) GENERAL DEFINITIONS.—Any term used in this section which is also used in section 45I shall have the meaning given such term in section 45I.

''(f) NATIONAL LIMITATION ON THE AGGREGATE CAPACITY OF ADVANCED CLEAN COAL TECHNOLOGY UNITS.—

''(1) IN GENERAL.—For purposes of subsection (b)(1)(G), the national megawatt capacity limitation is—

''(A) for qualifying advanced clean coal technology units using advanced pulverized coal or atmospheric fluidized bed combustion technology, not more than 1,000 megawatts (not more than 500 megawatts in the case of units placed in service before 2009),

''(B) for such units using pressurized fluidized bed combustion technology, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009),

''(C) for such units using integrated gasification combined cycle technology, with or without fuel or chemical co-production, not more than 2,000 megawatts (not more than 1,000 megawatts in the case of units placed in service before 2009 and not more than 1,500 megawatts in the case of units placed in service after 2008 and before 2013), and

''(D) for such units using other technology for the production of electricity, not more than 500 megawatts (not more than 250 megawatts in the case of units placed in service before 2009).

''(2) ALLOCATION OF LIMITATION.—The Secretary shall allocate the national megawatt capacity limitation for qualifying advanced clean coal technology units in such manner as the Secretary may prescribe under the regulations under paragraph (3).

''(3) REGULATIONS.—Not later than 6 months after the date of the enactment of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate—

''(A) to carry out the purposes of this subsection and section 45J,

''(B) to limit the capacity of any qualifying advanced clean coal technology unit to which this section applies so that the combined megawatt capacity of all such units to which this section applies does not exceed 4,000 megawatts,

''(C) to provide a certification process described in section 45I(e)(3)(C),

''(D) to carry out the purposes described in subparagraphs (D), (E), and (F) of section 45I(e)(3), and

''(E) to reallocate capacity which is not allocated to any technology described in subparagraphs (A) through (D) of paragraph (1) because an insufficient number of qualifying units request an allocation for such technology, to another technology described in such subparagraphs in order to maximize the amount of energy efficient production encouraged with the available tax credits.

''(4) SELECTION CRITERIA.—For purposes of paragraph (3)(C), the selection criteria for allocating the national megawatt capacity limitation to qualifying advanced clean coal technology units—

''(A) shall be established by the Secretary of Energy as part of a competitive solicitation,

''(B) shall include primary criteria of minimum design net heat rate, maximum design thermal efficiency, environmental performance, and lowest cost to the Government, and

''(C) shall include supplemental criteria as determined appropriate by the Secretary of Energy.

''(g) QUALIFIED INVESTMENT.—For purposes of subsection (a), the term 'qualified investment' means, with respect to any taxable year, the basis of a qualifying advanced clean coal technology unit placed in service by the taxpayer during such taxable year (in the case of a unit described in subsection (b)(1)(A)(i)(II), only that portion of the basis of such unit which is properly attributable to the retrofitting or repowering of such unit).

''(h) QUALIFIED PROGRESS EXPENDITURES.—

''(1) INCREASE IN QUALIFIED INVESTMENT.—In the case of a taxpayer who has made an election under paragraph (5), the amount of the qualified investment of such taxpayer for the taxable year (determined under subsection (g) without regard to this subsection) shall be increased by an amount equal to the aggregate of each qualified progress expenditure for the taxable year with respect to progress expenditure property.

''(2) PROGRESS EXPENDITURE PROPERTY DEFINED.—For purposes of this subsection, the term 'progress expenditure property' means any property being constructed by or for the taxpayer and which it is reasonable to believe will qualify as a qualifying advanced clean coal technology unit which is being constructed by or for the taxpayer when it is placed in service.

''(3) QUALIFIED PROGRESS EXPENDITURES DEFINED.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—In the case of any self-constructed property, the term 'qualified progress expenditures' means the amount which, for purposes of this subpart, is properly chargeable (during such taxable year) to capital account with respect to such property.

''(B) NONSELF-CONSTRUCTED PROPERTY.—In the case of nonself-constructed property, the term 'qualified progress expenditures' means the amount paid during the taxable year to another person for the construction of such property.

''(4) OTHER DEFINITIONS.—For purposes of this subsection—

''(A) SELF-CONSTRUCTED PROPERTY.—The term 'self-constructed property' means property for which it is reasonable to believe that more than half of the construction expenditures will be made directly by the taxpayer.

''(B) NONSELF-CONSTRUCTED PROPERTY.—The term 'nonself-constructed property' means property which is not self-constructed property.

''(C) CONSTRUCTION, ETC.—The term 'construction' includes reconstruction and erection, and the term 'constructed' includes reconstructed and erected.

''(D) ONLY CONSTRUCTION OF QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT TO BE

*TAKEN INTO ACCOUNT.—Construction shall be taken into account only if, for purposes of this subpart, expenditures therefor are properly chargeable to capital account with respect to the property.*

*''(5) ELECTION.—An election under this subsection may be made at such time and in such manner as the Secretary may by regulations prescribe. Such an election shall apply to the taxable year for which made and to all subsequent taxable years. Such an election, once made, may not be revoked except with the consent of the Secretary.*

*''(i) COORDINATION WITH OTHER CREDITS.—This section shall not apply to any property with respect to which the rehabilitation credit under section 47 or the energy credit under section 48 is allowed unless the taxpayer elects to waive the application of such credit to such property.''.*

*(c) RECAPTURE.—Section 50(a) (relating to other special rules) is amended by adding at the end the following new paragraph:*

*''(6) SPECIAL RULES RELATING TO QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.—For purposes of applying this subsection in the case of any credit allowable by reason of section 48A, the following shall apply:*

*''(A) GENERAL RULE.—In lieu of the amount of the increase in tax under paragraph (1), the increase in tax shall be an amount equal to the investment tax credit allowed under section 38 for all prior taxable years with respect to a qualifying advanced clean coal technology unit (as defined by section 48A(b)(1)) multiplied by a fraction whose numerator is the number of years remaining to fully depreciate under this title the qualifying advanced clean coal technology unit disposed of, and whose denominator is the total number of years over which such unit would otherwise have been subject to depreciation. For purposes of the preceding sentence, the year of disposition of the qualifying advanced clean coal technology unit shall be treated as a year of remaining depreciation.*

*''(B) PROPERTY CEASES TO QUALIFY FOR PROGRESS EXPENDITURES.—Rules similar to the rules of paragraph (2) shall apply in the case of qualified progress expenditures for a qualifying advanced clean coal technology unit under section 48A, except that the amount of the increase in tax under subparagraph (A) of this paragraph shall be substituted for the amount described in such paragraph (2).*

*''(C) APPLICATION OF PARAGRAPH.—This paragraph shall be applied separately with respect to the credit allowed under section 38 regarding a qualifying advanced clean coal technology unit.''.*

*(d) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(17) NO CARRYBACK OF SECTION 48A CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology unit credit determined under section 48A may be carried back to a taxable year ending on or before the date of the enactment of section 48A.''.*

*(e) TECHNICAL AMENDMENTS.—*

*(1) Section 49(a)(1)(C) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following new clause:*

*''(iv) the portion of the basis of any qualifying advanced clean coal technology unit attributable to any qualified investment (as defined by section 48A(g)).''.*

*(2) Section 50(a)(4) is amended by striking ''and (2)'' and inserting ''(2), and (6)''.*

*(3) Section 50(c) is amended by adding at the end the following new paragraph:*

*''(6) NONAPPLICATION.—Paragraphs (1) and (2) shall not apply to any qualifying advanced clean coal technology unit credit under section 48A.''.*

*(4) The table of sections for subpart E of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 48 the following new item:*

*''Sec. 48A. Qualifying advanced clean coal technology unit credit.''.*

*(f) EFFECTIVE DATE.—The amendments made by this section shall apply to periods after the date of the enactment of this Act, under rules similar to the rules of section 48(m) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).*

***SEC. 2212. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.***

*(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:*

***''SEC. 45J. CREDIT FOR PRODUCTION FROM A QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY UNIT.***

*''(a) GENERAL RULE.—For purposes of section 38, the qualifying advanced clean coal technology production credit of any taxpayer for any taxable year is equal to—*

*''(1) the applicable amount of advanced clean coal technology production credit, multiplied by*

*''(2) the applicable percentage (as determined under section 48A(c)) of the sum of—*

*''(A) the kilowatt hours of electricity, plus*

*''(B) each 3,413 Btu of fuels or chemicals,*

*produced by the taxpayer during such taxable year at a qualifying advanced clean coal technology unit during the 10-year period beginning on the date the unit was originally placed in service (or returned to service after becoming a qualifying advanced clean coal technology unit).*

*''(b) APPLICABLE AMOUNT.—For purposes of this section, the applicable amount of advanced clean coal technology production credit with respect to production from a qualifying advanced clean coal technology unit shall be determined as follows:*

*''(1) Where the qualifying advanced clean coal technology unit is producing electricity only:*

*''(A) In the case of a unit originally placed in service before 2009, if—*

| ''The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 8,400 | $.0060 | $.0038 |
| More than 8,400 but not more than 8,550 | $.0025 | $.0010 |
| More than 8,550 but less than 8,750 | $.0010 | $.0010. |

*''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—*

| ''The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7,770 | $.0105 | $.0090 |
| More than 7,770 but not more than 8,125 | $.0085 | $.0068 |
| More than 8,125 but less than 8,350 | $.0075 | $.0055. |

*''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—*

| ''The design net heat rate is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not more than 7,380 | $.0140 | $.0115 |
| More than 7,380 but not more than 7,720 | $.0120 | $.0090. |

''(2) Where the qualifying advanced clean coal technology unit is producing fuel or chemicals:

''(A) In the case of a unit originally placed in service before 2009, if—

| ''The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 40.6 percent | $.0060 | $.0038 |
| Less than 40.6 but not less than 40 percent | $.0025 | $.0010 |
| Less than 40 but not less than 39 percent | $.0010 | $.0010. |

''(B) In the case of a unit originally placed in service after 2008 and before 2013, if—

| ''The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 43.6 percent | $.0105 | $.0090 |
| Less than 43.6 but not less than 42 percent | $.0085 | $.0068 |
| Less than 42 but not less than 40.9 percent | $.0075 | $.0055. |

''(C) In the case of a unit originally placed in service after 2012 and before 2017, if—

| ''The unit design net thermal efficiency (HHV) is: | The applicable amount is: | |
|---|---|---|
| | For 1st 5 years of such service | For 2d 5 years of such service |
| Not less than 44.2 percent | $.0140 | $.0115 |
| Less than 44.2 but not less than 43.9 percent | $.0120 | $.0090. |

''(c) INFLATION ADJUSTMENT.—For calendar years after 2003, each amount in paragraphs (1) and (2) of subsection (b) shall be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the amount is applied. If any amount as increased under the preceding sentence is not a multiple of 0.01 cent, such amount shall be rounded to the nearest multiple of 0.01 cent.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) IN GENERAL.—Any term used in this section which is also used in section 45I or 48A shall have the meaning given such term in such section.

''(2) APPLICABLE RULES.—The rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.''.

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting '', plus'', and by adding at the end the following new paragraph:

''(21) the qualifying advanced clean coal technology production credit determined under section 45J(a).''.

(c) TRANSITIONAL RULE.—Section 39(d) (relating to transitional rules), as amended by this Act, is amended by adding at the end the following new paragraph:

''(18) NO CARRYBACK OF SECTION 45J CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the qualifying advanced clean coal technology production credit determined under section 45J may be carried back to a taxable year ending on or before the date of the enactment of section 45J.''.

(d) DENIAL OF DOUBLE BENEFIT.—Section 29(d) (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(9) DENIAL OF DOUBLE BENEFIT.—This section shall not apply with respect to any qualified fuel the production of which may be taken into account for purposes of determining the credit under section 45J.''.

(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:

''Sec. 45J. Credit for production from a qualifying advanced clean coal technology unit.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.

**Subtitle C—Treatment of Persons Not Able To Use Entire Credit**

**SEC. 2221. TREATMENT OF PERSONS NOT ABLE TO USE ENTIRE CREDIT.**

(a) IN GENERAL.—Section 45I, as added by this Act, is amended by adding at the end the following new subsection:

''(f) TREATMENT OF PERSON NOT ABLE TO USE ENTIRE CREDIT.—

''(1) ALLOWANCE OF CREDITS.—

''(A) IN GENERAL.—Any credit allowable under this section, section 45J, or section 48A with respect to a facility owned by a person described in subparagraph (B) may be transferred or used as provided in this subsection, and the determination as to whether the credit is allowable shall be made without regard to the tax-exempt status of the person.

''(B) PERSONS DESCRIBED.—A person is described in this subparagraph if the person is—

''(i) an organization described in section 501(c)(12)(C) and exempt from tax under section 501(a),

''(ii) an organization described in section 1381(a)(2)(C),

''(iii) a public utility (as defined in section 136(c)(2)(B)),

''(iv) any State or political subdivision thereof, the District of Columbia, or any agency or instrumentality of any of the foregoing,

''(v) any Indian tribal government (within the meaning of section 7871) or any agency or instrumentality thereof, or

''(vi) the Tennessee Valley Authority.

''(2) TRANSFER OF CREDIT.—

''(A) IN GENERAL.—A person described in clause (i), (ii), (iii), (iv), or (v) of paragraph (1)(B) may transfer any credit to which paragraph (1)(A) applies through an assignment to any other person not described in paragraph (1)(B). Such transfer may be revoked only with the consent of the Secretary.

''(B) REGULATIONS.—The Secretary shall prescribe such regulations as necessary to insure that any credit described in subparagraph (A) is claimed once and not reassigned by such other person.

''(C) TRANSFER PROCEEDS TREATED AS ARISING FROM ESSENTIAL GOVERNMENT FUNCTION.—Any proceeds derived by a person described in clause (iii), (iv), or (v) of paragraph (1)(B) from the transfer of any credit under subparagraph (A) shall be treated as arising from the exercise of an essential government function.

''(3) USE OF CREDIT AS AN OFFSET.—Notwithstanding any other provision of law, in the case of a person described in clause (i), (ii), or (v) of paragraph (1)(B), any credit to which paragraph (1)(A) applies may be applied by such person, to the extent provided by the Secretary of Agriculture, as a prepayment of any loan, debt, or other obligation the entity has incurred under subchapter I of chapter 31 of title 7 of the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.), as in effect on the date of the enactment of this section.

''(4) USE BY TVA.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a person described in paragraph (1)(B)(vi), any credit to which paragraph (1)(A) applies may be applied as a credit against the payments required to be made in any fiscal year under section 15d(e) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4(e)) as an annual return on the appropriations investment and an annual repayment sum.

''(B) TREATMENT OF CREDITS.—The aggregate amount of credits described in paragraph (1)(A) with respect to such person shall be treated in the same manner and to the same extent as if such credits were a payment in cash and shall

*be applied first against the annual return on the appropriations investment.*

*''(C) CREDIT CARRYOVER.—With respect to any fiscal year, if the aggregate amount of credits described paragraph (1)(A) with respect to such person exceeds the aggregate amount of payment obligations described in subparagraph (A), the excess amount shall remain available for application as credits against the amounts of such payment obligations in succeeding fiscal years in the same manner as described in this paragraph.*

*''(5) CREDIT NOT INCOME.—Any transfer under paragraph (2) or use under paragraph (3) of any credit to which paragraph (1)(A) applies shall not be treated as income for purposes of section 501(c)(12).*

*''(6) TREATMENT OF UNRELATED PERSONS.—For purposes of this subsection, sales among and between persons described in clauses (i), (ii), (iii), (iv), and (v) of paragraph (1)(A) shall be treated as sales between unrelated parties.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to production after the date of the enactment of this Act, in taxable years ending after such date.*

## *TITLE XXIII—OIL AND GAS PROVISIONS*

### *SEC. 2301. OIL AND GAS FROM MARGINAL WELLS.*

*(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business credits), as amended by this Act, is amended by adding at the end the following new section:*

### *''SEC. 45K. CREDIT FOR PRODUCING OIL AND GAS FROM MARGINAL WELLS.*

*''(a) GENERAL RULE.—For purposes of section 38, the marginal well production credit for any taxable year is an amount equal to the product of—*

*''(1) the credit amount, and*

*''(2) the qualified credit oil production and the qualified natural gas production which is attributable to the taxpayer.*

*''(b) CREDIT AMOUNT.—For purposes of this section—*

*''(1) IN GENERAL.—The credit amount is—*

*''(A) $3 per barrel of qualified crude oil production, and*

*''(B) 50 cents per 1,000 cubic feet of qualified natural gas production.*

*''(2) REDUCTION AS OIL AND GAS PRICES INCREASE.—*

*''(A) IN GENERAL.—The $3 and 50 cents amounts under paragraph (1) shall each be reduced (but not below zero) by an amount which bears the same ratio to such amount (determined without regard to this paragraph) as—*

*''(i) the excess (if any) of the applicable reference price over $15 ($1.67 for qualified natural gas production), bears to*

*''(ii) $3 ($0.33 for qualified natural gas production).*

*The applicable reference price for a taxable year is the reference price of the calendar year preceding the calendar year in which the taxable year begins.*

*''(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2002, each of the dollar amounts contained in subparagraph (A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting '2001' for '1990').*

*''(C) REFERENCE PRICE.—For purposes of this paragraph, the term 'reference price' means, with respect to any calendar year—*

*''(i) in the case of qualified crude oil production, the reference price determined under section 29(d)(2)(C), and*

*''(ii) in the case of qualified natural gas production, the Secretary's estimate of the annual average wellhead price per 1,000 cubic feet for all domestic natural gas.*

*''(c) QUALIFIED CRUDE OIL AND NATURAL GAS PRODUCTION.—For purposes of this section—*

*''(1) IN GENERAL.—The terms 'qualified crude oil production' and 'qualified natural gas production' mean domestic crude oil or natural gas which is produced from a qualified marginal well.*

*''(2) LIMITATION ON AMOUNT OF PRODUCTION WHICH MAY QUALIFY.—*

*''(A) IN GENERAL.—Crude oil or natural gas produced during any taxable year from any well shall not be treated as qualified crude oil production or qualified natural gas production to the extent production from the well during the taxable year exceeds 1,095 barrels or barrel equivalents.*

*''(B) PROPORTIONATE REDUCTIONS.—*

*''(i) SHORT TAXABLE YEARS.—In the case of a short taxable year, the limitations under this paragraph shall be proportionately reduced to reflect the ratio which the number of days in such taxable year bears to 365.*

*''(ii) WELLS NOT IN PRODUCTION ENTIRE YEAR.—In the case of a well which is not capable of production during each day of a taxable year, the limitations under this paragraph applicable to the well shall be proportionately reduced to reflect the ratio which the number of days of production bears to the total number of days in the taxable year.*

*''(3) DEFINITIONS.—*

*''(A) QUALIFIED MARGINAL WELL.—The term 'qualified marginal well' means a domestic well—*

*''(i) the production from which during the taxable year is treated as marginal production under section 613A(c)(6), or*

*''(ii) which, during the taxable year—*

*''(I) has average daily production of not more than 25 barrel equivalents, and*

*''(II) produces water at a rate not less than 95 percent of total well effluent.*

*''(B) CRUDE OIL, ETC.—The terms 'crude oil', 'natural gas', 'domestic', and 'barrel' have the meanings given such terms by section 613A(e).*

*''(C) BARREL EQUIVALENT.—The term 'barrel equivalent' means, with respect to natural gas, a conversation ratio of 6,000 cubic feet of natural gas to 1 barrel of crude oil.*

*''(d) OTHER RULES.—*

*''(1) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a qualified marginal well in which there is more than one owner of operating interests in the well and the crude oil or natural gas production exceeds the limitation under subsection (c)(2), qualifying crude oil production or qualifying natural gas production attributable to the taxpayer shall be determined on the basis of the ratio which taxpayer's revenue interest in the production bears to the aggregate of the revenue interests of all operating interest owners in the production.*

*''(2) OPERATING INTEREST REQUIRED.—Any credit under this section may be claimed only on production which is attributable to the holder of an operating interest.*

*''(3) PRODUCTION FROM NONCONVENTIONAL SOURCES EXCLUDED.—In the case of production from a qualified marginal well which is eligible for the credit allowed under section 29 for the taxable year, no credit shall be allowable under this section unless the taxpayer elects not to claim the credit under section 29 with respect to the well.*

*''(4) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subsection (c)(3)(A), a marginal well which is not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be a qualified marginal well during such period.''.*

*(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting '', plus'', and by adding at the end the following new paragraph:*

*''(22) the marginal oil and gas well production credit determined under section 45K(a).''.*

*(c) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—Subsection (d) of section 39, as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(19) NO CARRYBACK OF MARGINAL OIL AND GAS WELL PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the marginal oil and gas well production credit determined under section 45K may be carried back to a taxable year ending on or before the date of the enactment of section 45K.''.*

*(d) COORDINATION WITH SECTION 29.—Section 29(a) is amended by striking ''There'' and inserting ''At the election of the taxpayer, there''.*

*(e) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 45K. Credit for producing oil and gas from marginal wells.''.*

*(f) EFFECTIVE DATE.—The amendments made by this section shall apply to production in taxable years beginning after the date of the enactment of this Act.*

### *SEC. 2302. NATURAL GAS GATHERING LINES TREATED AS 7-YEAR PROPERTY.*

*(a) IN GENERAL.—Subparagraph (C) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:*

*''(ii) any natural gas gathering line, and''.*

*(b) NATURAL GAS GATHERING LINE.—Subsection (i) of section 168, as amended by this Act, is amended by adding at the end the following new paragraph:*

*''(16) NATURAL GAS GATHERING LINE.—The term 'natural gas gathering line' means—*

*''(A) the pipe, equipment, and appurtenances determined to be a gathering line by the Federal Energy Regulatory Commission, or*

*''(B) the pipe, equipment, and appurtenances used to deliver natural gas from the wellhead or a commonpoint to the point at which such gas first reaches—*

*''(i) a gas processing plant,*

*''(ii) an interconnection with a transmission pipeline certificated by the Federal Energy Regulatory Commission as an interstate transmission pipeline,*

*''(iii) an interconnection with an intrastate transmission pipeline, or*

*''(iv) a direct interconnection with a local distribution company, a gas storage facility, or an industrial consumer.''.*

*(c) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B) is amended by inserting after the item relating to subparagraph (C)(i) the following new item:*

*''(C)(ii) ..... 10''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.*

### *SEC. 2303. EXPENSING OF CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.*

*(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by inserting after section 179C the following new section:*

### *''SEC. 179D. DEDUCTION FOR CAPITAL COSTS INCURRED IN COMPLYING WITH ENVIRONMENTAL PROTECTION AGENCY SULFUR REGULATIONS.*

*''(a) TREATMENT AS EXPENSE.—*

*''(1) IN GENERAL.—A small business refiner may elect to treat any qualified capital costs as an expense which is not chargeable to capital account. Any qualified cost which is so treated shall be allowed as a deduction for the taxable year in which the cost is paid or incurred.*

*''(2) LIMITATION.—*

*''(A) IN GENERAL.—The aggregate costs which may be taken into account under this subsection*

*for any taxable year may not exceed the applicable percentage of the qualified capital costs paid or incurred for the taxable year.*

*''(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—*

*''(i) IN GENERAL.—Except as provided in clause (ii), the applicable percentage is 75 percent.*

*''(ii) REDUCED PERCENTAGE.—In the case of a small business refiner with average daily refinery runs for the period described in subsection (b)(2) in excess of 155,000 barrels, the percentage described in clause (i) shall be reduced (not below zero) by the product of such percentage (before the application of this clause) and the ratio of such excess to 50,000 barrels.*

*''(b) DEFINITIONS.—For purposes of this section—*

*''(1) QUALIFIED CAPITAL COSTS.—The term 'qualified capital costs' means any costs which—*

*''(A) are otherwise chargeable to capital account, and*

*''(B) are paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirement of the Environmental Protection Agency, as in effect on the date of the enactment of this section, with respect to a facility placed in service by the taxpayer before such date.*

*''(2) SMALL BUSINESS REFINER.—The term 'small business refiner' means, with respect to any taxable year, a refiner of crude oil, which, within the refinery operations of the business, employs not more than 1,500 employees on any day during such taxable year and whose average daily refinery run for the 1-year period ending on the date of the enactment of this section did not exceed 205,000 barrels.*

*''(c) COORDINATION WITH OTHER PROVISIONS.—Section 280B shall not apply to amounts which are treated as expenses under this section.*

*''(d) BASIS REDUCTION.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).*

*''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.''.*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 263(a)(1), as amended by this Act, is amended by striking ''or'' at the end of subparagraph (I), by striking the period at the end of subparagraph (J) and inserting '', or'', and by inserting after subparagraph (J) the following new subparagraph:*

*''(K) expenditures for which a deduction is allowed under section 179D.''.*

*(2) Section 263A(c)(3) is amended by inserting ''179C,'' after ''section''.*

*(3) Section 312(k)(3)(B), as amended by this Act, is amended by striking ''or 179C'' each place it appears in the heading and text and inserting '', 179C, or 179D''.*

*(4) Section 1016(a), as amended by this Act, is amended by striking ''and'' at the end of paragraph (33), by striking the period at the end of paragraph (34) and inserting '', and'', and by adding at the end the following new paragraph:*

*''(35) to the extent provided in section 179D(d).''.*

*(5) Section 1245(a), as amended by this Act, is amended by inserting ''179D,'' after ''179C,'' both places it appears in paragraphs (2)(C) and (3)(C).*

*(6) The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by inserting after section 179C the following new item:*

*''Sec. 179D. Deduction for capital costs incurred in complying with Environmental Protection Agency sulfur regulations.''.*

*(c) EFFECTIVE DATE.—The amendment made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.*

***SEC. 2304. ENVIRONMENTAL TAX CREDIT.***

*(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business-related credits), as amended by this Act, is amended by adding at the end the following new section:*

***''SEC. 45L. ENVIRONMENTAL TAX CREDIT.***

*''(a) IN GENERAL.—For purposes of section 38, the amount of the environmental tax credit determined under this section with respect to any small business refiner for any taxable year is an amount equal to 5 cents for every gallon of 15 parts per million or less sulfur diesel produced at a facility by such small business refiner during such taxable year.*

*''(b) MAXIMUM CREDIT.—*

*''(1) IN GENERAL.—For any small business refiner, the aggregate amount determined under subsection (a) for any taxable year with respect to any facility shall not exceed the applicable percentage of the qualified capital costs paid or incurred by such small business refiner with respect to such facility during the applicable period, reduced by the credit allowed under subsection (a) for any preceding year.*

*''(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1)—*

*''(A) IN GENERAL.—Except as provided in subparagraph (B), the applicable percentage is 25 percent.*

*''(B) REDUCED PERCENTAGE.—The percentage described in subparagraph (A) shall be reduced in the same manner as under section 179D(a)(2)(B)(ii).*

*''(c) DEFINITIONS.—For purposes of this section—*

*''(1) IN GENERAL.—The terms 'small business refiner' and 'qualified capital costs' have the same meaning as given in section 179D.*

*''(2) APPLICABLE PERIOD.—The term 'applicable period' means, with respect to any facility, the period beginning on the day after the date which is 1 year after the date of the enactment of this section and ending with the date which is 1 year after the date on which the taxpayer must comply with the applicable EPA regulations with respect to such facility.*

*''(3) APPLICABLE EPA REGULATIONS.—The term 'applicable EPA regulations' means the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency, as in effect on the date of the enactment of this section.*

*''(d) CERTIFICATION.—*

*''(1) REQUIRED.—Not later than the date which is 30 months after the first day of the first taxable year in which the environmental tax credit is allowed with respect to qualified capital costs paid or incurred with respect to a facility, the small business refiner shall obtain a certification from the Secretary, in consultation with the Administrator of the Environmental Protection Agency, that the taxpayer's qualified capital costs with respect to such facility will result in compliance with the applicable EPA regulations.*

*''(2) CONTENTS OF APPLICATION.—An application for certification shall include relevant information regarding unit capacities and operating characteristics sufficient for the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to determine that such qualified capital costs are necessary for compliance with the applicable EPA regulations.*

*''(3) REVIEW PERIOD.—Any application shall be reviewed and notice of certification, if applicable, shall be made within 60 days of receipt of such application. In the event the Secretary does not notify the taxpayer of the results of such certification within such period, the taxpayer may presume the certification to be issued until so notified.*

*''(4) STATUTE OF LIMITATIONS.—With respect to the credit allowed under this section—*

*''(A) the statutory period for the assessment of any deficiency attributable to such credit shall not expire before the end of the 3-year period ending on the date that the review period described in paragraph (3) ends, and*

*''(B) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of any other law or rule of law which would otherwise prevent such assessment.*

*''(e) CONTROLLED GROUPS.—For purposes of this section, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.*

*''(f) COOPERATIVE ORGANIZATIONS.—*

*''(1) APPORTIONMENT OF CREDIT.—In the case of a cooperative organization described in section 1381(a), any portion of the credit determined under subsection (a) of this section, for the taxable year may, at the election of the organization, be apportioned among patrons eligible to share in patronage dividends on the basis of the quantity or value of business done with or for such patrons for the taxable year. Such an election shall be irrevocable for such taxable year.*

*''(2) TREATMENT OF ORGANIZATIONS AND PATRONS.—*

*''(A) ORGANIZATIONS.—The amount of the credit not apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the taxable year of the organization.*

*''(B) PATRONS.—The amount of the credit apportioned to patrons pursuant to paragraph (1) shall be included in the amount determined under subsection (a) for the first taxable year of each patron ending on or after the last day of the payment period (as defined in section 1382(d)) for the taxable year of the organization or, if earlier, for the taxable year of each patron ending on or after the date on which the patron receives notice from the cooperative of the apportionment.''.*

*(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to general business credit), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting '', plus'', and by adding at the end the following new paragraph:*

*''(23) in the case of a small business refiner, the environmental tax credit determined under section 45L(a).''.*

*(c) DENIAL OF DOUBLE BENEFIT.—Section 280C (relating to certain expenses for which credits are allowable), as amended by this Act, is amended by adding after subsection (d) the following new subsection:*

*''(e) ENVIRONMENTAL TAX CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45L(a).''.*

*(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 45L. Environmental tax credit.''.*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act, in taxable years ending after such date.*

***SEC. 2305. DETERMINATION OF SMALL REFINER EXCEPTION TO OIL DEPLETION DEDUCTION.***

*(a) IN GENERAL.—Paragraph (4) of section 613A(d) (relating to certain refiners excluded) is amended to read as follows:*

*''(4) CERTAIN REFINERS EXCLUDED.—If the taxpayer or 1 or more related persons engages in the refining of crude oil, subsection (c) shall not apply to the taxpayer for a taxable year if the average daily refinery runs of the taxpayer and such persons for the taxable year exceed 60,000 barrels. For purposes of this paragraph, the average daily refinery runs for any taxable year shall be determined by dividing the aggregate*

*refinery runs for the taxable year by the number of days in the taxable year.''.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2002.*

***SEC. 2306. MARGINAL PRODUCTION INCOME LIMIT EXTENSION.***

*Section 613A(c)(6)(H) (relating to temporary suspension of taxable income limit with respect to marginal production), as amended by section 607(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2007''.*

***SEC. 2307. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES.***

*(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:*

***''SEC. 199. AMORTIZATION OF GEOLOGICAL AND GEOPHYSICAL EXPENDITURES FOR DOMESTIC OIL AND GAS WELLS.***

*''A taxpayer shall be entitled to an amortization deduction with respect to any geological and geophysical expenses incurred in connection with the exploration for, or development of, oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such expenses were incurred.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 199. Amortization of geological and geophysical expenditures for domestic oil and gas wells.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 2002.*

***SEC. 2308. AMORTIZATION OF DELAY RENTAL PAYMENTS.***

*(a) IN GENERAL.—Part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new section:*

***''SEC. 199A. AMORTIZATION OF DELAY RENTAL PAYMENTS FOR DOMESTIC OIL AND GAS WELLS.***

*''(a) IN GENERAL.—A taxpayer shall be entitled to an amortization deduction with respect to any delay rental payments incurred in connection with the development of oil or gas within the United States (as defined in section 638) based on a period of 24 months beginning with the month in which such payments were incurred.''.*

*''(b) DELAY RENTAL PAYMENTS.—For purposes of this section, the term 'delay rental payment' means an amount paid for the privilege of deferring development of an oil or gas well under an oil or gas lease.''.*

*(b) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 199A. Amortization of delay rental payments for domestic oil and gas wells.''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2002.*

***SEC. 2309. STUDY OF COAL BED METHANE.***

*(a) IN GENERAL.—The Secretary of the Treasury shall study the effect of section 29 of the Internal Revenue Code of 1986 on the production of coal bed methane. Such study shall be made in conjunction with the study to be undertaken by the Secretary of the Interior on the effects of coal bed methane production on surface and water resources, as provided in section 607 of the Energy Policy Act of 2002.*

*(b) CONTENTS OF STUDY.—The study under subsection (a) shall estimate the total amount of credits under section 29 of the Internal Revenue Code of 1986 claimed annually and in the aggregate which are related to the production of coal bed methane since the date of the enactment of such section 29. Such study shall report the annual value of such credits allowable for coal bed methane compared to the average annual wellhead price of natural gas (per thousand cubic feet of natural gas). Such study shall also estimate the incremental increase in production of coal bed methane that has resulted from the enactment of such section 29, and the cost to the Federal Government, in terms of the net tax benefits claimed, per thousand cubic feet of incremental coal bed methane produced annually and in the aggregate since such enactment.*

***SEC. 2310. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.***

*(a) IN GENERAL.—Section 29 is amended by adding at the end the following new subsection:*

*''(h) EXTENSION FOR OTHER FACILITIES.—*

*''(1) OIL AND GAS.—In the case of a well or facility for producing qualified fuels described in subparagraph (A) or (B) of subsection (c)(1) which was drilled or placed in service after the date of the enactment of this subsection and before January 1, 2005, notwithstanding subsection (f), this section shall apply with respect to such fuels produced at such well or facility not later than the close of the 3-year period beginning on the date that such well is drilled or such facility is placed in service.*

*''(2) FACILITIES PRODUCING REFINED COAL.—*

*''(A) IN GENERAL.—In the case of a facility described in subparagraph (C) for producing refined coal which was placed in service after the date of the enactment of this subsection and before January 1, 2007, this section shall apply with respect to fuel produced at such facility not later than the close of the 5-year period beginning on the date such facility is placed in service.*

*''(B) REFINED COAL.—For purposes of this paragraph, the term 'refined coal' means a fuel which is a liquid, gaseous, or solid synthetic fuel produced from coal (including lignite) or high carbon fly ash, including such fuel used as a feedstock.*

*''(C) COVERED FACILITIES.—*

*''(i) IN GENERAL.—A facility is described in this subparagraph if such facility produces refined coal using a technology that results in—*

*''(I) a qualified emission reduction, and*

*''(II) a qualified enhanced value.*

*''(ii) QUALIFIED EMISSION REDUCTION.—For purposes of this subparagraph, the term 'qualified emission reduction' means a reduction of at least 20 percent of the emissions of nitrogen oxide and either sulfur dioxide or mercury released when burning the refined coal (excluding any dilution caused by materials combined or added during the production process), as compared to the emissions released when burning the feedstock coal or comparable coal predominantly available in the marketplace as of January 1, 2002.*

*''(iii) QUALIFIED ENHANCED VALUE.—For purposes of this subparagraph, the term 'qualified enhanced value' means an increase of at least 50 percent in the market value of the refined coal (excluding any increase caused by materials combined or added during the production process), as compared to the value of the feedstock coal.*

*''(iv) QUALIFYING ADVANCED CLEAN COAL TECHNOLOGY FACILITIES EXCLUDED.—A facility described in this subparagraph shall not include a qualifying advanced clean coal technology facility (as defined in section 48A(b)).*

*''(3) WELLS PRODUCING VISCOUS OIL.—*

*''(A) IN GENERAL.—In the case of a well for producing viscous oil which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such well not later than the close of the 3-year period beginning on the date such well is placed in service.*

*''(B) VISCOUS OIL.—The term ''viscous oil' means heavy oil, as defined in section 613A(c)(6), except that—*

*''(i) '22 degrees' shall be substituted for '20 degrees' in applying subparagraph (F) thereof, and*

*''(ii) in all cases, the oil gravity shall be measured from the initial well-head samples, drill cuttings, or down hole samples.*

*''(C) WAIVER OF UNRELATED PERSON REQUIREMENT.—In the case of viscous oil, the requirement under subsection (a)(1)(B)(i) of a sale to an unrelated person shall not apply to any sale to the extent that the viscous oil is not consumed in the immediate vicinity of the wellhead.*

*''(4) COALMINE METHANE GAS.—*

*''(A) IN GENERAL.—This section shall apply to coalmine methane gas—*

*''(i) captured or extracted by the taxpayer after the date of the enactment of this subsection and before January 1, 2005, and*

*''(ii) utilized as a fuel source or sold by or on behalf of the taxpayer to an unrelated person after the date of the enactment of this subsection and before January 1, 2005.*

*''(B) COALMINE METHANE GAS.—For purposes of this paragraph, the term 'coalmine methane gas' means any methane gas which is—*

*''(i) liberated during qualified coal mining operations, or*

*''(ii) extracted up to 5 years in advance of qualified coal mining operations as part of a specific plan to mine a coal deposit.*

*''(C) SPECIAL RULE FOR ADVANCED EXTRACTION.—In the case of coalmine methane gas which is captured in advance of qualified coal mining operations, the credit under subsection (a) shall be allowed only after the date the coal extraction occurs in the immediate area where the coalmine methane gas was removed.*

*''(D) NONCOMPLIANCE WITH POLLUTION LAWS.—For purposes of subparagraphs (B) and (C), coal mining operations which are not in compliance with the applicable State and Federal pollution prevention, control, and permit requirements for any period of time shall not be considered to be qualified coal mining operations during such period.*

*''(5) FACILITIES PRODUCING FUELS FROM AGRICULTURAL AND ANIMAL WASTE.—*

*''(A) IN GENERAL.—In the case of facility for producing liquid, gaseous, or solid fuels from qualified agricultural and animal wastes, including such fuels when used as feedstocks, which was placed in service after the date of the enactment of this subsection and before January 1, 2005, this section shall apply with respect to fuel produced at such facility not later than the close of the 3-year period beginning on the date such facility is placed in service.*

*''(B) QUALIFIED AGRICULTURAL AND ANIMAL WASTE.—For purposes of this paragraph, the term 'qualified agricultural and animal waste' means agriculture and animal waste, including by-products, packaging, and any materials associated with the processing, feeding, selling, transporting, or disposal of agricultural or animal products or wastes, including wood shavings, straw, rice hulls, and other bedding for the disposition of manure.*

*''(6) CREDIT AMOUNT.—In determining the amount of credit allowable under this section solely by reason of this subsection, the dollar amount applicable under subsection (a)(1) shall be $3 (without regard to subsection (b)(2)).''.*

*(b) EXTENSION FOR CERTAIN FUEL PRODUCED AT EXISTING FACILITIES.—Paragraph (2) of section 29(f) (relating to application of section) is amended by inserting ''(January 1, 2005, in the case of any coke, coke gas, or natural gas and byproducts produced by coal gasification from lignite in a facility described in paragraph (1)(B))'' after ''January 1, 2003''.*

*(c) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold after the date of the enactment of this Act.*

**SEC. 2311. NATURAL GAS DISTRIBUTION LINES TREATED AS 15-YEAR PROPERTY.**

*(a) IN GENERAL.—Subparagraph (E) of section 168(e)(3) (relating to classification of certain property) is amended by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and by inserting '', and'', and by adding at the end the following new clause:*

*''(iv) any natural gas distribution line.''.*

*(b) ALTERNATIVE SYSTEM.—The table contained in section 168(g)(3)(B), as amended by this Act, is amended by adding after the item relating to subparagraph (E)(iii) the following new item:*

*''(E)(iv) ..... 20''.*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after the date of the enactment of this Act, in taxable years ending after such date.*

## TITLE XXIV—ELECTRIC UTILITY RESTRUCTURING PROVISIONS

**SEC. 2401. ONGOING STUDY AND REPORTS REGARDING TAX ISSUES RESULTING FROM FUTURE RESTRUCTURING DECISIONS.**

*(a) ONGOING STUDY.—The Secretary of the Treasury, after consultation with the Federal Energy Regulatory Commission, shall undertake an ongoing study of Federal tax issues resulting from nontax decisions on the restructuring of the electric industry. In particular, the study shall focus on the effect on tax-exempt bonding authority of public power entities and on corporate restructuring which results from the restructuring of the electric industry.*

*(b) REGULATORY RELIEF.—In connection with the study described in subsection (a), the Secretary of the Treasury should exercise the Secretary's authority, as appropriate, to modify or suspend regulations that may impede an electric utility company's ability to reorganize its capital stock structure to respond to a competitive marketplace.*

*(c) REPORTS.—The Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than December 31, 2002, regarding Federal tax issues identified under the study described in subsection (a), and at least annually thereafter, regarding such issues identified since the preceding report. Such reports shall also include such legislative recommendations regarding changes to the private business use rules under subpart A of part IV of subchapter B of chapter 1 of the Internal Revenue Code of 1986 as the Secretary of the Treasury deems necessary. The reports shall continue until such time as the Federal Energy Regulatory Commission has completed the restructuring of the electric industry.*

**SEC. 2402. MODIFICATIONS TO SPECIAL RULES FOR NUCLEAR DECOMMISSIONING COSTS.**

*(a) REPEAL OF LIMITATION ON DEPOSITS INTO FUND BASED ON COST OF SERVICE; CONTRIBUTIONS AFTER FUNDING PERIOD.—Subsection (b) of section 468A is amended to read as follows:*

*''(b) LIMITATION ON AMOUNTS PAID INTO FUND.—The amount which a taxpayer may pay into the Fund for any taxable year shall not exceed the ruling amount applicable to such taxable year.''.*

*(b) CLARIFICATION OF TREATMENT OF FUND TRANSFERS.—Subsection (e) of section 468A is amended by adding at the end the following new paragraph:*

*''(8) TREATMENT OF FUND TRANSFERS.—If, in connection with the transfer of the taxpayer's interest in a nuclear power plant, the taxpayer transfers the Fund with respect to such power plant to the transferee of such interest and the transferee elects to continue the application of this section to such Fund—*

*''(A) the transfer of such Fund shall not cause such Fund to be disqualified from the application of this section, and*

*''(B) no amount shall be treated as distributed from such Fund, or be includible in gross income, by reason of such transfer.''.*

*(c) DEDUCTION FOR NUCLEAR DECOMMISSIONING COSTS WHEN PAID.—Paragraph (2) of section 468A(c) is amended to read as follows:*

*''(2) DEDUCTION OF NUCLEAR DECOMMISSIONING COSTS.—In addition to any deduction under subsection (a), nuclear decommissioning costs paid or incurred by the taxpayer during any taxable year shall constitute ordinary and necessary expenses in carrying on a trade or business under section 162.''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.*

**SEC. 2403. TREATMENT OF CERTAIN INCOME OF COOPERATIVES.**

*(a) INCOME FROM OPEN ACCESS AND NUCLEAR DECOMMISSIONING TRANSACTIONS.—*

*(1) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking ''or'' at the end of clause (i), by striking clause (ii), and by adding at the end the following new clauses:*

*''(ii) from any open access transaction (other than income received or accrued directly or indirectly from a member),*

*''(iii) from any nuclear decommissioning transaction,*

*''(iv) from any asset exchange or conversion transaction, or*

*''(v) from the prepayment of any loan, debt, or obligation made, insured, or guaranteed under the Rural Electrification Act of 1936.''.*

*(2) DEFINITIONS AND SPECIAL RULES.—Paragraph (12) of section 501(c) is amended by adding at the end the following new subparagraphs:*

*''(E) For purposes of subparagraph (C)(ii)—*

*''(i) The term 'open access transaction' means any transaction meeting the open access requirements of any of the following subclauses with respect to a mutual or cooperative electric company:*

*''(I) The provision or sale of transmission service or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis pursuant to an open access transmission tariff filed with and approved by FERC, including an acceptable reciprocity tariff, or under a regional transmission organization agreement approved by FERC.*

*''(II) The provision or sale of electric energy distribution services or ancillary services meets the open access requirements of this subclause only if such services are provided on a nondiscriminatory open access basis to end-users served by distribution facilities owned by the mutual or cooperative electric company (or its members).*

*''(III) The delivery or sale of electric energy generated by a generation facility meets the open access requirements of this subclause only if such facility is directly connected to distribution facilities owned by the mutual or cooperative electric company (or its members) which owns the generation facility, and such distribution facilities meet the open access requirements of subclause (II).*

*''(ii) Clause (i)(I) shall apply in the case of a voluntarily filed tariff only if the mutual or cooperative electric company files a report with FERC within 90 days after the date of the enactment of this subparagraph relating to whether or not such company will join a regional transmission organization.*

*''(iii) A mutual or cooperative electric company shall be treated as meeting the open access requirements of clause (i)(I) if a regional transmission organization controls the transmission facilities.*

*''(iv) References to FERC in this subparagraph shall be treated as including references to the Public Utility Commission of Texas with respect to any ERCOT utility (as defined in section 212(k)(2)(B) of the Federal Power Act (16 U.S.C. 824k(k)(2)(B))) or references to the Rural Utilities Service with respect to any other facility not subject to FERC jurisdiction.*

*''(v) For purposes of this subparagraph—*

*''(I) The term 'transmission facility' means an electric output facility (other than a generation facility) that operates at an electric voltage of 69 kV or greater. To the extent provided in regulations, such term includes any output facility that FERC determines is a transmission facility under standards applied by FERC under the Federal Power Act (as in effect on the date of the enactment of the Energy Tax Incentives Act of 2002).*

*''(II) The term 'regional transmission organization' includes an independent system operator.*

*''(III) The term 'FERC' means the Federal Energy Regulatory Commission.*

*''(F) The term 'nuclear decommissioning transaction' means—*

*''(i) any transfer into a trust, fund, or instrument established to pay any nuclear decommissioning costs if the transfer is in connection with the transfer of the mutual or cooperative electric company's interest in a nuclear power plant or nuclear power plant unit,*

*''(ii) any distribution from any trust, fund, or instrument established to pay any nuclear decommissioning costs, or*

*''(iii) any earnings from any trust, fund, or instrument established to pay any nuclear decommissioning costs.*

*''(G) The term 'asset exchange or conversion transaction' means any voluntary exchange or involuntary conversion of any property related to generating, transmitting, distributing, or selling electric energy by a mutual or cooperative electric company, the gain from which qualifies for deferred recognition under section 1031 or 1033, but only if the replacement property acquired by such company pursuant to such section constitutes property which is used, or to be used, for—*

*''(i) generating, transmitting, distributing, or selling electric energy, or*

*''(ii) producing, transmitting, distributing, or selling natural gas.''.*

*(b) TREATMENT OF INCOME FROM LOAD LOSS TRANSACTIONS.—Paragraph (12) of section 501(c), as amended by subsection (a)(2), is amended by adding after subparagraph (G) the following new subparagraph:*

*''(H)(i) In the case of a mutual or cooperative electric company described in this paragraph or an organization described in section 1381(a)(2)(C), income received or accrued from a load loss transaction shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.*

*''(ii) For purposes of clause (i), the term 'load loss transaction' means any wholesale or retail sale of electric energy (other than to members) to the extent that the aggregate sales during the recovery period does not exceed the load loss mitigation sales limit for such period.*

*''(iii) For purposes of clause (ii), the load loss mitigation sales limit for the recovery period is the sum of the annual load losses for each year of such period.*

*''(iv) For purposes of clause (iii), a mutual or cooperative electric company's annual load loss for each year of the recovery period is the amount (if any) by which—*

*''(I) the megawatt hours of electric energy sold during such year to members of such electric company are less than*

*''(II) the megawatt hours of electric energy sold during the base year to such members.*

*''(v) For purposes of clause (iv)(II), the term 'base year' means—*

*''(I) the calendar year preceding the start-up year, or*

*''(II) at the election of the electric company, the second or third calendar years preceding the start-up year.*

*''(vi) For purposes of this subparagraph, the recovery period is the 7-year period beginning with the start-up year.*

''(vii) For purposes of this subparagraph, the start-up year is the calendar year which includes the date of the enactment of this subparagraph or, if later, at the election of the mutual or cooperative electric company—

''(I) the first year that such electric company offers nondiscriminatory open access, or

''(II) the first year in which at least 10 percent of such electric company's sales are not to members of such electric company.

''(viii) A company shall not fail to be treated as a mutual or cooperative company for purposes of this paragraph or as a corporation operating on a cooperative basis for purposes of section 1381(a)(2)(C) by reason of the treatment under clause (i).

''(ix) In the case of a mutual or cooperative electric company, income from any open access transaction received, or accrued, indirectly from a member shall be treated as an amount collected from members for the sole purpose of meeting losses and expenses.''.

(c) EXCEPTION FROM UNRELATED BUSINESS TAXABLE INCOME.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end the following new paragraph:

''(18) TREATMENT OF MUTUAL OR COOPERATIVE ELECTRIC COMPANIES.—In the case of a mutual or cooperative electric company described in section 501(c)(12), there shall be excluded income which is treated as member income under subparagraph (H) thereof.''.

(d) CROSS REFERENCE.—Section 1381 is amended by adding at the end the following new subsection:

''(c) CROSS REFERENCE.—

**''For treatment of income from load loss transactions of organizations described in subsection (a)(2)(C), see section 501(c)(12)(H).''.**

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 2404. SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.**

(a) IN GENERAL.—Section 451 (relating to general rule for taxable year of inclusion) is amended by adding at the end the following new subsection:

''(i) SPECIAL RULE FOR SALES OR DISPOSITIONS TO IMPLEMENT FEDERAL ENERGY REGULATORY COMMISSION OR STATE ELECTRIC RESTRUCTURING POLICY.—

''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualifying electric transmission transaction in any taxable year—

''(A) any ordinary income derived from such transaction which would be required to be recognized under section 1245 or 1250 for such taxable year (determined without regard to this subsection), and

''(B) any income derived from such transaction in excess of such ordinary income which is required to be included in gross income for such taxable year,

shall be so recognized and included ratably over the 8-taxable year period beginning with such taxable year.

''(2) QUALIFYING ELECTRIC TRANSMISSION TRANSACTION.—For purposes of this subsection, the term 'qualifying electric transmission transaction' means any sale or other disposition before January 1, 2007, of—

''(A) property used by the taxpayer in the trade or business of providing electric transmission services, or

''(B) any stock or partnership interest in a corporation or partnership, as the case may be, whose principal trade or business consists of providing electric transmission services,

but only if such sale or disposition is to an independent transmission company.

''(3) INDEPENDENT TRANSMISSION COMPANY.—For purposes of this subsection, the term 'independent transmission company' means—

''(A) a regional transmission organization approved by the Federal Energy Regulatory Commission,

''(B) a person—

''(i) who the Federal Energy Regulatory Commission determines in its authorization of the transaction under section 203 of the Federal Power Act (16 U.S.C. 824b) is not a market participant within the meaning of such Commission's rules applicable to regional transmission organizations, and

''(ii) whose transmission facilities to which the election under this subsection applies are under the operational control of a Federal Energy Regulatory Commission-approved regional transmission organization before the close of the period specified in such authorization, but not later than the close of the period applicable under paragraph (1), or

''(C) in the case of facilities subject to the exclusive jurisdiction of the Public Utility Commission of Texas, a person which is approved by that Commission as consistent with Texas State law regarding an independent transmission organization.

''(4) ELECTION.—An election under paragraph (1), once made, shall be irrevocable.

''(5) NONAPPLICATION OF INSTALLMENT SALES TREATMENT.—Section 453 shall not apply to any qualifying electric transmission transaction with respect to which an election to apply this subsection is made.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transactions occurring after the date of the enactment of this Act.

**SEC. 2405. APPLICATION OF TEMPORARY REGULATIONS TO CERTAIN OUTPUT CONTRACTS.**

In the application of section 1–141–7(c)(4) of the Treasury Temporary Regulations to output contracts entered into after February 22, 1998, with respect to an issuer participating in open access with respect to the issuer's transmission facilities, an output contract in existence on or before such date that is amended after such date shall be treated as a contract entered into after such date only if the amendment increases the amount of output sold under such contract by extending the term of the contract or increasing the amount of output sold, but such treatment as a contract entered into after such date shall begin on the effective date of the amendment and shall apply only with respect to the increased output to be provided under such contract.

**SEC. 2406. TREATMENT OF CERTAIN DEVELOPMENT INCOME OF COOPERATIVES.**

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12), as amended by this Act, is amended by striking ''or'' at the end of clause (iv), by striking the period at the end of clause (v) and insert '', or'', and by adding at the end the following new clause:

''(vi) from the receipt before January 1, 2007, of any money, property, capital, or any other contribution in aid of construction or connection charge intended to facilitate the provision of electric service for the purpose of developing qualified fuels from nonconventional sources (within the meaning of section 29).''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

## TITLE XXV—ADDITIONAL PROVISIONS

**SEC. 2501. EXTENSION OF ACCELERATED DEPRECIATION AND WAGE CREDIT BENEFITS ON INDIAN RESERVATIONS.**

(a) SPECIAL RECOVERY PERIOD FOR PROPERTY ON INDIAN RESERVATIONS.—Section 168(j)(8) (relating to termination), as amended by section 613(b) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

(b) INDIAN EMPLOYMENT CREDIT.—Section 45A(f) (relating to termination), as amended by section 613(a) of the Job Creation and Worker Assistance Act of 2002, is amended by striking ''2004'' and inserting ''2005''.

**SEC. 2502. STUDY OF EFFECTIVENESS OF CERTAIN PROVISIONS BY GAO.**

(a) STUDY.—The Comptroller General of the United States shall undertake an ongoing analysis of—

(1) the effectiveness of the alternative motor vehicles and fuel incentives provisions under title II and the conservation and energy efficiency provisions under title III, and

(2) the recipients of the tax benefits contained in such provisions, including an identification of such recipients by income and other appropriate measurements.

Such analysis shall quantify the effectiveness of such provisions by examining and comparing the Federal Government's forgone revenue to the aggregate amount of energy actually conserved and tangible environmental benefits gained as a result of such provisions.

(b) REPORTS.—The Comptroller General of the United States shall report the analysis required under subsection (a) to Congress not later than December 31, 2002, and annually thereafter.

**SEC. 2503. CREDIT FOR PRODUCTION OF ALASKA NATURAL GAS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits), as amended by this Act, is amended by adding at the end the following new section:

**''SEC. 45M. ALASKA NATURAL GAS.**

''(a) IN GENERAL.—For purposes of section 38, the Alaska natural gas credit of any taxpayer for any taxable year is the credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude, which is attributable to the taxpayer and sold by or on behalf of the taxpayer to an unrelated person during such taxable year (within the meaning of section 45).

''(b) CREDIT AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The credit amount per 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude (determined in United States dollars), is the excess of—

''(A) $3.25, over

''(B) the average monthly price at the AECO C Hub in Alberta, Canada, for Alaska natural gas for the month in which occurs the date of such entering.

''(2) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after the first calendar year ending after the date described in subsection (g)(1), the dollar amount contained in paragraph (1)(A) shall be increased to an amount equal to such dollar amount multiplied by the inflation adjustment factor for such calendar year (determined under section 43(b)(3)(B) by substituting 'the calendar year ending before the date described in section 45M(g)(1)' for '1990').

''(c) ALASKA NATURAL GAS.—For purposes of this section, the term 'Alaska natural gas' means natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude produced in compliance with the applicable State and Federal pollution prevention, control, and permit requirements from the area generally known as the North Slope of Alaska (including the continental shelf thereof within the meaning of section 638(l)), determined without regard to the area of the Alaska National Wildlife Refuge (including the continental shelf thereof within the meaning of section 638(l)).

''(d) RECAPTURE.—

''(1) IN GENERAL.—With respect to each 1,000,000 Btu of Alaska natural gas entering any intake or tie-in point which was derived

*from an area of the State of Alaska lying north of 64 degrees North latitude after the date which is 3 years after the date described in subsection (g)(1), if the average monthly price described in subsection (b)(1)(B) exceeds 150 percent of the amount described in subsection (b)(1)(A) for the month in which occurs the date of such entering, the taxpayer's tax under this chapter for the taxable year shall be increased by an amount equal to the lesser of—*

*''(A) such excess, or*

*''(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted if the Alaska natural gas credit received by the taxpayer for such years had been zero.*

*''(2) SPECIAL RULES.—*

*''(A) TAX BENEFIT RULE.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.*

*''(B) NO CREDITS AGAINST TAX.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under this chapter or for purposes of section 55.*

*''(e) APPLICATION OF RULES.—For purposes of this section, rules similar to the rules of paragraphs (3), (4), and (5) of section 45(d) shall apply.*

*''(f) NO DOUBLE BENEFIT.—The amount of any deduction or other credit allowable under this chapter for any fuel taken into account in computing the amount of the credit determined under subsection (a) shall be reduced by the amount of such credit attributable to such fuel.*

*''(g) APPLICATION OF SECTION.—This section shall apply to Alaska natural gas entering any intake or tie-in point which was derived from an area of the State of Alaska lying north of 64 degrees North latitude for the period—*

*''(1) beginning with the later of—*

*''(A) January 1, 2010, or*

*''(B) the initial date for the interstate transportation of such Alaska natural gas, and*

*''(2) except with respect to subsection (d), ending with the date which is 15 years after the date described in paragraph (1).''.*

*(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b), as amended by this Act, is amended by striking ''plus'' at the end of paragraph (22), by striking the period at the end of paragraph (23) and inserting '', plus'', and by adding at the end the following new paragraph:*

*''(24) The Alaska natural gas credit determined under section 45M(a).''.*

*(c) ALLOWING CREDIT AGAINST ENTIRE REGULAR TAX AND MINIMUM TAX.—*

*(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax), as amended by this Act, is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:*

*''(5) SPECIAL RULES FOR ALASKA NATURAL GAS CREDIT.—*

*''(A) IN GENERAL.—In the case of the Alaska natural gas credit—*

*''(i) this section and section 39 shall be applied separately with respect to the credit, and*

*''(ii) in applying paragraph (1) to the credit—*

*''(I) the amounts in subparagraphs (A) and (B) thereof shall be treated as being zero, and*

*''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the Alaska natural gas credit).*

*''(B) ALASKA NATURAL GAS CREDIT.—For purposes of this subsection, the term 'Alaska natural gas credit' means the credit allowable under subsection (a) by reason of section 45M(a).''.*

*(2) CONFORMING AMENDMENTS.—Subclause (II) of section 38(c)(2)(A)(ii), as amended by this Act, subclause (II) of section 38(c)(3)(A)(ii), as amended by this Act, and subclause (II) of section 38(c)(4)(A)(ii), as added by this Act, are each amended by inserting ''or the Alaska natural gas credit'' after ''producer credit''.*

*(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 45M. Alaska natural gas.''.*

***SEC. 2504. SALE OF GASOLINE AND DIESEL FUEL AT DUTY-FREE SALES ENTERPRISES.***

*(a) PROHIBITION.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended—*

*(1) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and*

*(2) by inserting after paragraph (5) the following:*

*''(6) Any gasoline or diesel fuel sold at a duty-free sales enterprise shall be considered to be entered for consumption into the customs territory of the United States.''.*

*(b) CONSTRUCTION.—The amendments made by this section shall not be construed to create any inference with respect to the interpretation of any provision of law as such provision was in effect on the day before the date of enactment of this Act.*

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

***SEC. 2505. TREATMENT OF DAIRY PROPERTY.***

*(a) QUALIFIED DISPOSITION OF DAIRY PROPERTY TREATED AS INVOLUNTARY CONVERSION.—*

*(1) IN GENERAL.—Section 1033 (relating to involuntary conversions) is amended by designating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:*

*''(k) QUALIFIED DISPOSITION TO IMPLEMENT BOVINE TUBERCULOSIS ERADICATION PROGRAM.—*

*''(1) IN GENERAL.—For purposes of this subtitle, if a taxpayer elects the application of this subsection to a qualified disposition:*

*''(A) TREATMENT AS INVOLUNTARY CONVERSION.—Such disposition shall be treated as an involuntary conversion to which this section applies.*

*''(B) MODIFICATION OF SIMILAR PROPERTY REQUIREMENT.—Property to be held by the taxpayer either for productive use in a trade or business or for investment shall be treated as property similar or related in service or use to the property disposed of.*

*''(C) EXTENSION OF PERIOD FOR REPLACING PROPERTY.—Subsection (a)(2)(B)(i) shall be applied by substituting '4 years' for '2 years'.*

*''(D) WAIVER OF UNRELATED PERSON REQUIREMENT.—Subsection (i) (relating to replacement property must be acquired from unrelated person in certain cases) shall not apply.*

*''(E) EXPANDED CAPITAL GAIN FOR CATTLE AND HORSES.—Section 1231(b)(3)(A) shall be applied by substituting '1 month' for '24 months'.*

*''(2) QUALIFIED DISPOSITION.—*

*''(A) IN GENERAL.—For purposes of this subsection, the term 'qualified disposition' means the disposition of dairy property which is certified by the Secretary of Agriculture as having been the subject of an agreement under the bovine tuberculosis eradication program, as implemented pursuant to the Declaration of Emergency Because of Bovine Tuberculosis (65 Federal Register 63,227 (2000)).*

*''(B) PAYMENTS RECEIVED IN CONNECTION WITH THE BOVINE TUBERCULOSIS ERADICATION PROGRAM.—For purposes of this subsection, any amount received by a taxpayer in connection with an agreement under such bovine tuberculosis eradication program shall be treated as received in a qualified disposition.*

*''(C) TRANSMITTAL OF CERTIFICATIONS.—The Secretary of Agriculture shall transmit copies of certifications under this paragraph to the Secretary.*

*''(3) ALLOWANCE OF THE ADJUSTED BASIS OF CERTIFIED DAIRY PROPERTY AS A DEPRECIATION DEDUCTION.—The adjusted basis of any property certified under paragraph (2)(A) shall be allowed as a depreciation deduction under section 167 for the taxable year which includes the date of the certification described in paragraph (2)(A).*

*''(4) DAIRY PROPERTY.—For purposes of this subsection, the term 'dairy property' means all tangible or intangible property used in connection with a dairy business or a dairy processing plant.*

*''(5) SPECIAL RULES FOR CERTAIN BUSINESS ORGANIZATIONS.—*

*''(A) S CORPORATIONS.—In the case of an S corporation, gain on a qualified disposition shall not be treated as recognized for the purposes of section 1374 (relating to tax imposed on certain built-in gains).*

*''(B) PARTNERSHIPS.—In the case of a partnership which dissolves in anticipation of a qualified disposition (including in anticipation of receiving the amount described in paragraph (2)(B)), the dairy property owned by the partners of such partnership at the time of such disposition shall be treated, for the purposes of this section and notwithstanding any regulation or rule of law, as owned by such partners at the time of such disposition.*

*''(6) TERMINATION.—This subsection shall not apply to dispositions made after December 31, 2006.''.*

*(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to dispositions made and amounts received in taxable years ending after May 22, 2001.*

*(b) DEDUCTION OF QUALIFIED RECLAMATION EXPENDITURES.—*

*(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), as amended by this Act, is amended by adding at the end the following new section:*

***''SEC. 199B. EXPENSING OF DAIRY PROPERTY RECLAMATION COSTS.***

*''(a) IN GENERAL.—Notwithstanding section 280B (relating to demolition of structures), a taxpayer may elect to treat any qualified reclamation expenditure which is paid or incurred by the taxpayer as an expense which is not chargeable to capital account. Any expenditure which is so treated shall be allowed as a deduction for the taxable year in which it is paid or incurred.*

*''(b) QUALIFIED RECLAMATION EXPENDITURE.—*

*''(1) IN GENERAL.—For purposes of this subparagraph, the term 'qualified reclamation expenditure' means amounts otherwise chargeable to capital account and paid or incurred to convert any real property certified under section 1033(k)(2) (relating to qualified disposition) into unimproved land.*

*''(2) SPECIAL RULE FOR EXPENDITURES FOR DEPRECIABLE PROPERTY.—A rule similar to the rule of section 198(b)(2) (relating to special rule for expenditures for depreciable property) shall apply for purposes of paragraph (1).*

*''(c) DEDUCTION RECAPTURED AS ORDINARY INCOME.—Rules similar to the rules of section 198(e) (relating to deduction recaptured as ordinary income on sale, etc.) shall apply with respect to any qualified reclamation expenditure.*

*''(d) TERMINATION.—This section shall not apply to expenditures paid or incurred after December 31, 2006.''.*

*(2) CLERICAL AMENDMENT.—The table of sections for part VI of subchapter B of chapter 1, as amended by this Act, is amended by adding at the end the following new item:*

*''Sec. 199B. Expensing of dairy property reclamation costs.''.*

*(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to expenditures paid or incurred in taxable years ending after May 22, 2001.*

***SEC. 2506. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS.***

*(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:*

*''(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.''.*

*(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence:*

*''For purposes of this paragraph, in the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.''.*

*(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:*

*''(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—*

*''(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or*

*''(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),*

*but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.''.*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after December 31, 2001, and before January 1, 2003.*

***SEC. 2507. MODIFICATION OF RURAL AIRPORT DEFINITION.***

*(a) IN GENERAL.—Clause (ii) of section 4261(e)(1)(B) (defining rural airport) is amended by striking the period at the end of subclause (II) and inserting '', or'' and by adding at the end the following new subclause:*

*''(III) is not connected by paved roads to another airport.''.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.*

***SEC. 2508. EXEMPTION FROM TICKET TAXES FOR TRANSPORTATION PROVIDED BY SEAPLANES.***

*(a) IN GENERAL.—The taxes imposed by sections 4261 and 4271 shall not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water.*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after 2002.*

## *DIVISION I—IRAQ OIL IMPORT RESTRICTION*

## *TITLE XXVI—IRAQ OIL IMPORT RESTRICTION*

***SEC. 2601. SHORT TITLE AND FINDINGS.***

*(a) SHORT TITLE.—This title can be cited as the ''Iraq Petroleum Import Restriction Act of 2002''.*

*(b) FINDINGS.—Congress finds that—*

*(1) the Government of the Republic of Iraq—*

*(A) has failed to comply with the terms of United Nations Security Council Resolution 687 regarding unconditional Iraqi acceptance of the destruction, removal, or rendering harmless, under international supervision, of all nuclear, chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities, as well as all ballistic missiles with a range greater than 150 kilometers and related major parts, and repair and production facilities and has failed to allow United Nations inspectors access to sites used for the production or storage of weapons of mass destruction;*

*(B) routinely contravenes the terms and. conditions of UNSC Resolution 661, authorizing the export of petroleum products from Iraq in exchange for food, medicine and other humanitarian products by conducting a routine and extensive program to sell such products outside of the channels established by UNSC Resolution 661 in exchange for military equipment and materials to be used in pursuit of its program to develop weapons of mass destruction in order to threaten the United States and its allies in the Persian Gulf and surrounding regions;*

*(C) has failed to adequately draw down upon the amounts received in the Escrow Account established by UNSC Resolution 986 to purchase food, medicine and other humanitarian products required by its citizens, resulting in massive humanitarian suffering by the Iraqi people;*

*(D) conducts a periodic and systematic campaign to harass and obstruct the enforcement of the United States- and United Kingdom-enforced ''No-Fly Zones'' in effect in the Republic of Iraq;*

*(E) routinely manipulates the petroleum export production volumes permitted under UNSC Resolution 661 in order to create uncertainty in global energy markets, and therefore threatens the economic security of the United States;*

*(F) pays bounties to the families of suicide bombers in order to encourage the murder of Israeli civilians;*

*(2) further imports of petroleum products from the Republic of Iraq are inconsistent with the national security and foreign policy interests of the United States and should be eliminated until such time as they are not so inconsistent.*

***SEC. 2602. PROHIBITION ON IRAQI-ORIGIN PETROLEUM IMPORTS.***

*The direct or indirect import from Iraq of Iraqi-origin petroleum and petroleum products is prohibited, notwithstanding an authorization by the Committee established by UNSC Resolution 661 or its designee, or any other order to the contrary.*

***SEC. 2603. TERMINATION/PRESIDENTIAL CERTIFICATION.***

*This title will remain in effect until such time as the President, after consultation with the relevant committees in Congress, certifies to the Congress that—*

*(1) Iraq is in substantial compliance with the terms of—*

*(A) UNSC Resolution 687; and*

*(B) UNSC Resolution 986 prohibiting smuggling of oil in circumvention of the ''Oil-for-Food'' program; and*

*(2) ceases the practice of compensating the families of suicide bombers in order to encourage the murder of Israeli citizens; or that*

*(3) resuming the importation of Iraqi-origin petroleum and petroleum products would not be inconsistent with the national security and foreign policy interests of the United States.*

***SEC. 2604. HUMANITARIAN INTERESTS.***

*It is the sense of the Senate that the President should make all appropriate efforts to ensure that the humanitarian needs of the Iraqi people are not negatively affected by this Act, and should encourage through public, private, domestic and international means the direct or indirect sale, donation or other transfer to appropriate nongovernmental health and humanitarian organizations and individuals within Iraq of food, medicine and other humanitarian products.*

***SEC. 2605. DEFINITIONS.***

*(a) 661 COMMITTEE.—The term 661 Committee means the Security Council Committee established by UNSC Resolution 661, and persons acting for or on behalf of the Committee under its specific delegation of authority for the relevant matter or category of activity, including the overseers appointed by the United Nations Secretary-General to examine and approve agreements for purchases of petroleum and petroleum products from the Government of Iraq pursuant to UNSC Resolution 986.*

*(b) UNSC RESOLUTION 661.—The term UNSC Resolution 661 means United Nations Security Council Resolution No. 661, adopted August 6, 1990, prohibiting certain transactions with respect to Iraq and Kuwait.*

*(c) UNSC RESOLUTION 687.—The term UNSC Resolution 687 means United Nations Security Council Resolution 687, adopted April 3, 1991.*

*(d) UNSC RESOLUTION 986.—The term UNSC Resolution 986 means United Nations Security Council Resolution 986, adopted April 14, 1995.*

***SEC. 2606. EFFECTIVE DATE.***

*The prohibition on importation of Iraqi-origin petroleum and petroleum products shall be effective 30 days after enactment of this Act.*

## *DIVISION J—MISCELLANEOUS*

## *TITLE XXVII—MISCELLANEOUS PROVISION*

***SEC. 2701. FAIR TREATMENT OF PRESIDENTIAL JUDICIAL NOMINEES.***

*It is the sense of the Senate that, in the interests of the administration of justice, the Senate Judiciary Committee should along with its other legislative and oversight responsibilities, continue to hold regular hearings on judicial nominees and should, in accordance with the precedents and practices of the Committee, schedule hearings on the nominees submitted by the President on May 9, 2001, and resubmitted on September 5, 2001, expeditiously.*

## CORRECTION OF WRONGFUL PRINTING OF ACTION TAKEN ON S. RES. 109 ON TUESDAY, APRIL 30, 2002

## NATIONAL CHILDREN'S MEMORIAL DAY AND CHILDREN'S MEMORIAL FLAG DAY

The Senate proceeded to consider the resolution (S. Res. 109) designating the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day'' which was reported with an amendment and an amendment to the title.

[Omit the part in black brackets and insert the part printed in italic.]

S. RES. 109

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from myriad causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one; and

Whereas April is National Child Abuse Prevention month: Now, therefore, be it

*Resolved,*

**SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY AND CHILDREN'S MEMORIAL FLAG DAY.**

The Senate—

[(1) designates the second Sunday in the month of December as ''National Children's Memorial Day'' and the last Friday in the month of April as ''Children's Memorial Flag Day''; and]

*(1) designates December 8, 2002, as ''National Children's Memorial Day'' and April 26, 2002, as ''Children's Memorial Flag Day''; and*

(2) requests that the President issue a proclamation calling upon the people of the United States to—

(A) observe ''National Children's Memorial Day'' with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died; and

(B) fly the Children's Memorial Flag on ''Children's Memorial Flag Day''.

Amend the title so as to read: ''A Resolution designating December 8, 2002, as 'National Children Memorial Day' and April 26, 2002, as 'Children's Memorial Flag Day'.''.

The committee amendment was agreed to.

The resolution (S. Res. 109), as amended, was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 109

Whereas approximately 80,000 infants, children, teenagers, and young adults of families living throughout the United States die each year from myriad causes;

Whereas the death of an infant, child, teenager, or young adult of a family is considered to be one of the greatest tragedies that a parent or family will ever endure during a lifetime;

Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a loved one; and

Whereas April is National Child Abuse Prevention month: Now, therefore, be it

*Resolved,*

**SECTION 1. DESIGNATION OF NATIONAL CHILDREN'S MEMORIAL DAY AND CHILDREN'S MEMORIAL FLAG DAY.**

The Senate—

(1) designates December 8, 2002, as ''National Children's Memorial Day'' and April 26, 2002, as ''Children's Memorial Flag Day''; and

(2) requests that the President issue a proclamation calling upon the people of the United States to—

(A) observe ''National Children's Memorial Day'' with appropriate ceremonies and activities in remembrance of the many infants, children, teenagers, and young adults of families in the United States who have died; and

(B) fly the Children's Memorial Flag on ''Children's Memorial Flag Day''.

The title was amended so as to read: ''A Resolution designating December 8, 2002, as 'National Children's Memorial Day' and April 26, 2002, as 'Children's Memorial Flag Day'.''

## APPOINTMENT OF CONFEREES—H.R. 4 AND H.R. 3295

Mr. REID. Madam President, I ask unanimous consent that the Chair appoint conferees on behalf of the Senate for H.R. 4

There being no objection, the Presiding Officer appointed Senators BINGAMAN, HOLLINGS, BAUCUS, KERRY, ROCKEFELLER, BREAUX, REID, JEFFORDS, LIEBERMAN, MURKOWSKI, DOMENICI, GRASSLEY, NICKLES, LOTT, CRAIG, CAMPBELL, and THOMAS conferees on the part of the Senate.

Mr. REID. Madam President, I ask unanimous consent that the Chair appoint conferees on behalf of the Senate for H.R. 3295.

There being no objection, the Presiding Officer appointed Mr. DODD, Mr. SCHUMER, Mr. DURBIN, Mr. MCCONNELL, and Mr. BOND conferees on the part of the Senate.

## NATIONAL BETTER HEARING AND SPEECH MONTH

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. Con. Res. 103.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 103) supporting the goals and ideals of National Better Hearing and Speech Month, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. REID. Madam President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc; the motion to reconsider be laid on the table; and that any statements relating thereto be printed in the RECORD, with no intervening action or debate.

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

The concurrent resolution (S. Con. Res. 103) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. 103

Whereas the National Institute on Deafness and Other Communication Disorders (NIDCD) reports that approximately 42,000,000 people in the United States suffer from a speech, voice, language, or hearing impairment;

Whereas almost 28,000,000 people in the United States suffer from hearing loss;

Whereas 1 out of every 3 people in the United States over 65 years of age suffers from hearing loss;

Whereas although more than 25,000,000 people in the United States would benefit from the use of a hearing aid, fewer than 7,000,000 people in the United States use a hearing aid;

Whereas sounds louder than 80 decibels are considered potentially dangerous and can lead to hearing loss;

Whereas the number of young children who suffer hearing loss as a result of environmental noise has increased;

Whereas every day in the United States approximately 33 babies are born with significant hearing loss;

Whereas hearing loss is the most common congenital disorder in newborns;

Whereas a delay in diagnosing a newborn's hearing loss can affect the child's social, emotional, and academic development;

Whereas the average age at which newborns with hearing loss are diagnosed is between 12 and 25 months;

Whereas more than 1,000,000 children received speech or language disorder services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) during the school year ending in 1998;

Whereas children with language impairments are 4 to 5 times more likely than their peers to experience reading problems;

Whereas 10 percent of children entering the first grade have moderate to severe speech disorders, including stuttering;

Whereas stuttering affects more than 2,000,000 people in the United States;

Whereas approximately 1,000,000 people in the United States have aphasia, a language disorder inhibiting spoken communication that results from damage caused by a stroke or other traumatic injury to the language centers of the brain; and

Whereas for the last 75 years, May has been celebrated as National Better Hearing and Speech Month in order to raise awareness regarding speech, voice, language, and hearing impairments and to provide an opportunity for Federal, State, and local governments, members of the private and nonprofit sectors, speech and hearing professionals, and the people of the United States to focus on preventing, mitigating, and curing such impairments: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That Congress—

(1) supports the goals and ideals of National Better Hearing and Speech Month;

(2) commends the 41 States that have implemented routine hearing screenings for every newborn before the newborn leaves the hospital;

(3) supports the efforts of speech and hearing professionals in their efforts to improve the speech and hearing development of children; and

(4) encourages the people of the United States to have their hearing checked regularly and to avoid environmental noise that can lead to hearing loss.

## ORDERS FOR THURSDAY, MAY 2, 2002

Mr. REID. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, May 2; that following the prayer and pledge, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and there be a period of morning business until 10 a.m., with the time under the control of Senator DASCHLE or his designee; and that at 10 a.m. the Senate resume consideration of H.R. 3009, the Andean Trade Act.

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

## PROGRAM

Mr. REID. Madam President, tomorrow there should be a series of votes. I don't know how many, but everyone should be aware of a number of votes coming before the Senate. The majority leader has also spoken to the Republican leader, and he expects a number of matters to be able to come up tomorrow evening, maybe some conference reports, maybe a resolution or

so. We are going to have votes tomorrow, and likely it will be a pretty late evening. Everyone should be prepared for that.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Madam President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:43 p.m., adjourned until Thursday, May 2, 2002, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate May 1, 2002:

### DEPARTMENT OF ENERGY

KYLE E. MCSLARROW, OF VIRGINIA, TO BE DEPUTY SECRETARY OF ENERGY, VICE FRANCIS S. BLAKE, RESIGNED.

### THE JUDICIARY

SUSAN G. BRADEN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE ROGER B. ANDEWELT, DECEASED.

REENA RAGGI, OF NEW YORK, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SECOND CIRCUIT, VICE AMALYA L. KEARSE, RETIRED.